REPORT

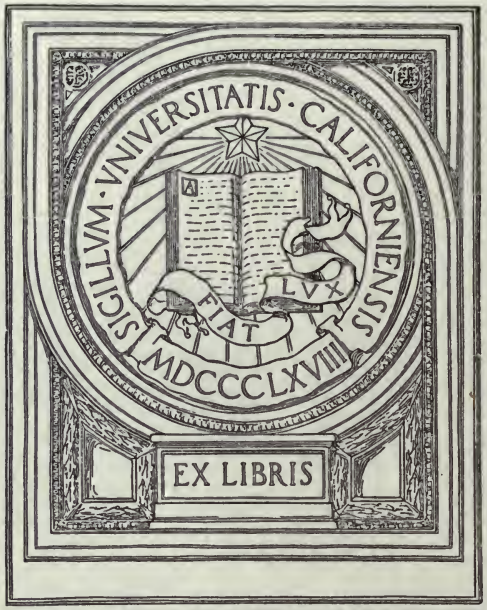
OF

CHARLES H. STRONG

Commissioner to Examine into the Management and Affairs of the State Board of Charities, the Fiscal Supervisor and Certain Related Boards and Commissions

TO

GOVERNOR WHITMAN



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1916

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HONORABLE CHARLES S. WHITMAN,
Governor of the State of New York.

SIR:—

On the 18th day of November, 1915, there issued to me a commission executed by the Governor, under and by virtue of the provisions of the Executive Law, Section 8 (the Moreland Act). In this commission I was appointed "to examine and investigate the management and affairs of the Office of the Fiscal Supervisor of State Charities; the State Board of Charities; the Sites, Buildings and Ground Commission; the Building Improvement Commission and the Salary Classification Commission, the said Commissioner to report to me with recommendations as may seem fitting with regard to what changes, if any, are advisable in the Laws of this State, relating to or affecting the several departments of the State under investigation."

On the same day, the Governor transmitted to me a letter as follows:

> "It having become increasingly evident to me that the management of the State charitable institutions is unnecessarily and unfortunately complicated and that responsibility is divided between too many offices and departments, resulting in confusion and delay, I, therefore, hereby appoint you under the provisions of Section 8 of the Executive Law, known as the Moreland Act, as a Commissioner to make a careful and thorough inquiry into all features of the work of the Fiscal Supervisor of State Charities, State Board of Charities, the Sites, Buildings and Grounds Commission, the Buildings Improvement Commission and the Salary Classification Commission, for the purpose of recommending to me at as early a date as practicable what changes, if any, should be made in the laws relating to the work of these several authorities.

I transmit herewith a communication received by me from the Acting Mayor of the City of New York, Hon. George McAneny, transmitting a copy of the report of the Commissioner of Public Charities of that city for the year 1914, in which the statement is made that the reports of inspections made by the State Board of Charities of institutions receiving public funds in the city of New York are widely at variance with the findings of the representatives of the City Department in relation to those institutions and that certain of those institutions which have received the certificate of approval of the State Board of Charities have been found to be actually in an unfit condition to provide proper care for the children heretofore sent to them.

As a part of the inquiry which you are hereinabove requested to make, you will please make careful inquiry as to the matters referred to by the Acting Mayor."

The State Board of Charities alone, of the parties named in the Governor's commission, appeared before me and asked to be represented by counsel. At the first hearing John M. Bowers, Esq., of New York City, appeared on behalf of said State Board. He said, in part:

"I am directed by these gentlemen to say that the State Board of Charities is fully in accord with the investigation directed by the Governor of the State of New York to be made by you. They deem it of great value to the people of the State, and offer their assistance to the fullest extent in such investigation. Except for the fact that in the letter of the Governor enclosing your appointment to make the investigation, the Governor refers to a communication from the Acting Mayor of the City of New York transmitting a report of the Commissioner of Public Charities of that city for the year 1914, making charges affecting the State Board of Charities and directs that as part of the inquiry to be made, you make careful inquiry into such charges, the State Board of Charities would not have felt it necessary or proper that they should ask the aid of counsel.

This inquiry, of course, necessitates determination by the Commissioner as to the truth of the charges made by the Commissioner of Charities, and following the usual course of procedure, the State Board of Charities appreciates that the Commissioner of

Charities will be given the fullest opportunity of substantiating his charges and this Board the same opportunity to meet them.

* * * * * * * *

The Board has consistently exercised the powers conferred upon it, so as to build up the character of the structures and character of the management of the different charitable institutions in the state, and believes that since the adoption of the Constitution of 1894, there has been a continued general improvement in the character of the structures and character of the management of the charitable institutions throughout the state of very great proportions.

It follows that the Board in exercising the important powers devolved upon it, must have the confidence of the people of the State.

It, therefore, desires the utmost investigation of the truth of the charges made by the Commissioner of Charities in the City of New York, to the end that the Governor and people of the State may be fully advised as to whether the members of the State Board of Charities have done everything within their power to improve the condition and management of the charitable institutions of the State."

Within a few days of my appointment I entered upon the discharge of my duties under the commission. I retained John Kirkland Clark, Esq., formerly an assistant district attorney in New York County, to assist me. The work fell into two divisions: the inquiry into the state laws, departments and institutions, and the inquiry into the inspections by the State Board of Charities of private institutions receiving aid from the City of New York.

The first public hearing was held at the Capitol in Albany on December 9, 1915. Further public hearings were held at Albany and in New York City upon the first or state-wide branch of the inquiry until the 28th day of January, 1916. Thereupon public hearings upon the second or local branch of the inquiry were begun and continued with little intermission until the 24th day of April, 1916.

At the opening session of the hearings upon the controversy over the state inspections of private institutions, the City of New York, through its Department of Public Charities, of which John A. Kings-

bury was Commissioner, was represented by William H. Hotchkiss, Esq., specially retained by the Corporation Counsel.

There are 15 volumes of the testimony, amounting to nearly 9,000 pages and over 900 exhibits, including the material submitted to the last constitutional convention and extensive information as to charities systems in all the other states of the Union and in Great Britain.

I have personally visited nearly all of the state institutions and some of the private institutions, time limitations alone preventing more visits. I have also made a personal inspection of some of the institutions in Massachusetts and conferred with many heads of departments and experts in that commonwealth.

An Historical Outline.

The Utica State Hospital, opened in 1843, is the oldest state institution in New York. It was followed by the Western House of Refuge for Juvenile Delinquents, now the State Agricultural and Industrial School at Rochester, in 1849, and the Asylum for Idiots, now the State Institution for Feeble-minded Children, at Syracuse, in 1851, the first of its kind in this country. The New York House of Refuge, Randall's Island, an institution for delinquent boys, also the first of the kind in the United States, was opened in 1825, but is under private management, receiving, however, state aid. In 1857 there were, in addition to these institutions, poorhouses, almshouses, orphan asylums, lunatic asylums, asylums for deafmutes and the blind, hospitals, jails and penitentiaries.

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A select committee of the senate, Mark Spencer, chairman, in 1857, reported its "conviction of the necessity of providing by law for a more efficient and constant supervision of all the charitable and reformatory institutions which participate in the public bounty or are supported by taxation; and a commission of well qualified persons to be appointed by the governor and senate, with such arrangement of the terms of service as will constantly secure experience, appears to be the best mode of effecting the purpose."

This proposal did not, however, assume the form of law until 1867, when New York became the third of the states to possess a State Board of Charities. Massachusetts had led the way in 1863, followed by Ohio earlier in 1867.

The board was first called the "Board of State Commissioners of Public Charities" and upon it was conferred the power to visit all charitable institutions, except prisons, receiving state aid, and to ascertain whether the appropriations therefor were economically and judiciously expended, to examine the condition of the institutions financially and to ascertain whether the objects of the several institutions were accomplished, etc. Gov. Fenton called it "the power of visitation and supervision over all public charities" (Message of 1868). The members then, as now, were chosen from the judicial districts of the state for terms of eight years. They served without compensation for services (Laws of 1867, C. 951).

The state then was making large annual appropriations to aid orphan asylums and homes for friendless, all of which the State Board inspected, but private, municipal and county institutions not in receipt of state aid, were not thus inspected until 1873. In that year this power of inspection was conferred upon the Board. Its name was then changed to the "State Board of Charities" (L. 1873, C. 571).

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An exclusive supervision of the institutions for the insane was continued by the State Board from 1867 to 1873. The board, however, recognized the need of a special supervision over the insane, and in the act last mentioned there was created the office of State Commissioner in Lunacy, who was *ex-officio* a member of the State Board of Charities. He served under the direction of that board and reported to it, was paid annually a salary of $4,000 and was required to be "an experienced and competent physician." The other members of the State Board retained their right of supervision.

In 1874 the State Commissioner in Lunacy was authorized to report directly to the legislature (L. 1874, C. 446).

In 1882 it became apparent to a committee of the senate (Sen. Doc. 68), that "the first great need of our state is the appointment of a Lunacy Commission consisting of three or more persons specially fitted for such an important trust."

In 1888, a committee of the State Board of Charities on the care of the insane recommended legislation creating a new commission, placing their recommendation upon the ground that a supervisory body such as the State Board of Charities should not exercise such executive powers as seemed to them desirable with respect to the institutions for the insane.

In 1889, the legislature established the State Commission in Lunacy. The State Board of Charities, however, retained its supervisory powers over the institutions for the insane. The State Commission in Lunacy from the first took the position that the State Board should not have any supervision over such institutions. Three commissioners were appointed by the Governor, the chairman, a physician, to receive $5,000 per annum; the second member, a lawyer, to receive $3,000 per annum; and the third member "a citizen of reputable character", to receive $10 per day. (Laws of 1889, C. 283.)

In 1890, the policy of exclusive state care of the insane was inaugurated, involving removal of all insane persons from county or municipal institutions. (Laws of 1890, C. 126.) In the same year, additional powers were conferred upon the State Commission in Lunacy (Laws of 1890, C. 273).

In 1893, the legislature vested fiscal control in the commission by providing that no expenditures should be made for maintenance except on itemized estimates (Laws of 1893, C. 214).

In 1894, the same degree of fiscal control over the state charitable institutions was vested in the comptroller (Laws of 1894, C. 654).

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In 1874 the people adopted the report of the Constitutional Commission of 1872 abolishing state aid to orphan asylums and similar institutions, but left untouched the field of local appropriations to such institutions.

In 1875 the State of New York entered upon the policy of reclaiming destitute children between the ages of three and sixteen from the almshouses and directing future commitments to orphan asylums or to the care of private families, requiring that, as far as practicable, a child shall be committed to an institution controlled by officers of the same religious faith as that of the parents of the child (L. 1875, C. 173). It was operation under this act that in large measure brought about the conditions that demanded and received the attention of the constitutional convention in 1894, for at that time in the City of New York among children under the age of sixteen one child in every thirty-five was an inmate of such institution.

Efforts were made in the convention of 1894 to secure a prohibition of all public aid to sectarian institutions, but permitting such aid to other private institutions. These efforts failed. The ultimate issue came to be whether all public aid to all private charities should at once be abolished

or whether there should be a new system of rules and regulations and enforcement thereof by the State Board of Charities. The latter view prevailed. Mr. Lincoln, in his treatise on the convention, calls it an "unsatisfactory compromise" (Vol. 2, p. 554).

The president of the convention, Mr. Joseph H. Choate, said in substance that if it were an original question, he would be in favor of prohibiting the application of any public money to any private charity; but the state, by the act of 1875, had deliberately entered "upon a scheme of using the agency of private charities for the purpose of taking care of these wards of the state, the helpless children who had nobody else to care for them"; and nobody questioned "the absolute duty of the state to provide for them in the way of care, maintenance, and of the same education that we give to other children of the state".

Mr. Root said: "We must either set up institutions ourselves, which will take care of the orphans and dependents, or we must prevent our Constitution from precluding the civil divisions of the state from taking care of these unfortunates where they are supporting, maintaining and educating them. * * * They must be educated. They are to be American citizens. The highest duty we owe them is that of educating them—above even food, clothing and shelter."

By virtue of the provisions of Art. VIII § 9 of the constitution of 1894, the prohibition of 1874 against state aid to private institutions, except for the education of the blind, the deaf and dumb, and juvenile delinquents, was continued.

In § 4 of Art. IX of the constitution, there is found a prohibition against aid by the state, or any subdivision thereof, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught. The constitution also contains as § 14 of Art. VIII, what Mr. Lincoln has since called the "unsatisfactory compromise". It is as follows:

> "§ 14. Nothing in this constitution contained shall prevent the legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under

public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the state board of charities. Such rules shall be subject to the control of the legislature by general laws."

The Constitutional Convention of 1894.

Upon the adoption of the report of the constitutional convention of 1894, the State Board of Charities and the State Commission in Lunacy for the first time were recognized as constitutional bodies, and the State Board of Charities then ceased its supervision over the hospitals for the insane, although for some years this supervision had not been extensively exercised.

Other pertinent sections from Art. VIII in the Constitution of 1894 are:

"§ 11. The legislature shall provide for a state board of charities, which shall visit and inspect all institutions whether state, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a state commission in lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a state commission of prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors."

"§ 15. Commissioners of the state board of charities and commissioners of the state commission in lunacy, now holding office, shall be continued in office for the term for which they were appointed, respectively, unless the legislature shall otherwise provide. The legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the constitution."

The State Board of Charities, with the aid of the State Charities Aid Association and other organizations, prepared and presented to the legislature, in 1895, a draft of a statute to make operative the provisions of the constitution in so far as they related to the powers and duties of the State Board of Charities. These labors took form in "An act to revise and consolidate the laws relating to the State Board of Charities" (Laws of 1895, C. 771). By provision of the statute, the board of eleven members was continued and in obedience to the constitutional requirement (Art. X, § 9), the legislature fixed a nominal compensation of $10 per diem for attendance at meetings, limiting the total compensation each year to $500. The powers and duties of the board under the earlier acts were continued and enlarged, and specific reference thereto will hereinafter be made as may be required.

The State Charities Law and the Poor Law.

The statutes relating to the State Board were revised by the Commissioners on Statutory Revision in 1895 and embodied in C. 546, Laws of 1896, known as the "State Charities Law," which as amended, became chapter 55 of the Consolidated Laws (L. 1909, C. 57). In 1896 the legislature enacted the "Poor Law" (Laws of 1896, C. 225), to which reference should be made to ascertain the powers and duties of the State Board of Charities with respect to the maintenance and removal of the State alien and non-resident poor, and the support of the Indian poor.

Power to Visit Private Institutions not in Receipt of Public Aid.

Until 1900, the State Board of Charities considered that, under the constitution and laws it was empowered to visit and inspect all private charitable institutions, irrespective of the question whether they were or were not in receipt of public aid. At the close of the year 1899, about 1,200 charitable institutions had been visited and inspected by the State Board and had reported to it. Of these 1080 were private institutions, of which 663 were entirely supported from private sources, including 35 homes for children.

In 1900, the Court of Appeals, in a proceeding instituted by the State Board of Charities for a writ of mandamus to compel the New York Society for the Prevention of Cruelty to Children to submit to visitation and inspection by the State Board of Charities, held in substance that the State Board had not the power to visit and inspect the society, for the reason that it did not fall within the class of institutions subject to the visitation and inspection of the State Board of Charities as described in the constitution. The court further laid down

the rule that a charitable institution, within the meaning of the constitution and the statutes, must be one that in some form or to some extent receives public moneys for the support and maintenance of indigent persons.

In 1901 the State Board of Charities in its annual report, in speaking of this decision, said:

> "For the first time in a quarter of a century, by preventing the collection of reports from organized charities, it prevents the Legislature and the public from having any definite knowledge annually of the amount of dependency which exists in the State. For instance, the total number of dependent children in institutions cannot now be definitely known through any official source. It can hardly be believed that the court intended this, but it is, nevertheless, one of the results of the decision."

In 1900, the President of the State Board wrote:

> "All of the inmates or beneficiaries of these several hundred institutions are now without the protection which State inspection has afforded them in the past. There is now no regularly constituted department of the State Government having authority to visit and inspect any of them, investigate their management where necessary, or, through the order of the Supreme Court, to correct abuses and enforce remedies. Must not this condition be regarded as a public calamity?"

An attempt was made by the State Board of Charities, the State Charities Aid Association and others, in the constitutional convention of 1915, to procure an explicit grant of this visitorial power to the State Board of Charities, but the proposal was not acted upon favorably by the convention.

At the instance of Ansley Wilcox, Esq., of Buffalo, a bill was introduced in the legislature in 1916 by Senator Horton, to amend the State Charities Law for the purpose of providing, in effect, that the supervisory powers of the State Board should extend over all charitable societies receiving public aid or making public appeals for funds for the support of their work. This bill remained in the committee.

Since 1900 there has been no inspection of this class of institutions

by the State Board of Charities, although it possesses the power of approving or disapproving the certificates of incorporation thereof. In other words, it may safeguard the creation of the institution, but not watch it thereafter (S. C. L., § 9).

Salary Classification Commission.

In 1899 the Salary Classification Commission was created by means of an amendment to § 17 of the Finance Law (Laws of 1899, C. 383). This commission consisted of the State Comptroller and the President of the State Board of Charities, and to it was given the power, subject to the approval of the governor, to classify into grades the officers and employees of the state charitable and reformatory institutions, and to fix the salaries and wages to be paid to such officers and employees. In 1914 the Fiscal Supervisor of State Charities was made a member of the commission (Laws of 1914, C. 215).

Fiscal Supervisor of State Charities.

In 1902, the legislature, on the recommendation of Governor Odell, over the opposition of the State Board of Charities, created the office of Fiscal Supervisor of State Charities, and by imposing upon such Fiscal Supervisor the duty of revising detailed estimates of institutional expenses prepared by the institution superintendents, conferred upon him complete fiscal control of the state charitable institutions (Laws of 1902, C. 252). There was, however, no repeal of any of the provisions of the State Charities Law touching the powers and duties of the State Board of Charities as to financial supervision of the institutions. In 1916 the governor recommended to the legislature the abolition of this office, but that action thereupon should be deferred until this report should have been submitted.

Building Improvement Commission.

In the same year, the legislature took from the State Board of Charities the power to approve plans and specifications for new buildings and improvements for the state charitable and reformatory institutions, and vested it in the Building Improvement Commission, consisting of the Governor, the President of the State Board of Charities and the Comptroller (Laws of 1902, C. 252). Thereafter, the Fiscal Supervisor was substituted for the Comptroller as a member of this commission.

Board of Classification.

In 1909, the legislature created a Board of Classification, consisting of the Fiscal Supervisor, the State Commission of Prisons, the Superintendent of State Prisons and the Lunacy Commission. It became the duty of said board to fix and determine prices at which all labor performed, and all articles manufactured in the state charitable institutions and in the penal institutions and furnished to the state or its political

subdivisions or to public institutions, should be compensated for (Laws of 1909, C. 47, § 184).

Board of Examiners of Feebleminded, Criminals, etc.

In 1912, the legislature created a Board of Examiners of Feeble-minded, Criminals and Other Defectives, consisting of one surgeon, one neurologist and one practitioner of medicine, for terms of five years, with a compensation of $10 per diem and expenses. It became the duty of this board to examine into the mental and physical condition and the record and family history of the feeble-minded, epileptic, criminal and other defective inmates in the state hospitals for the insane, state prisons, reformatories and charitable and penal institutions in the state. In the case of certain persons described in the act the board was given power to appoint one of its members to perform an operation for the prevention of procreation (Public Health Law, § 19; Laws of 1912, C. 445).

Commission on Sites, Grounds and Buildings.

In 1913, the legislature established the Commission on Sites, Grounds and Buildings, which was charged with the duty of reporting to the governor its action with respect to sites, location of buildings and laying out of grounds of all state institutions reporting to the Fiscal Supervisor and the State Board of Charities, whether existing institutions or institutions to be created. The Fiscal Supervisor was made chairman of the commission and the other members were a member of the State Board of Charities, the State Architect, a member of the Conservation Commission and the Commissioner of Agriculture, or their designated representatives, the chairman of the Senate Finance Committee and the chairman of the Assembly Ways and Means Committee (Laws of 1913, C. 625).

Multiplicity of Control and Division of Responsibility.

Excessive Visitation.

The framers of the constitution of the state were extremely explicit in marking out the boundaries of the visitorial powers over the state institutions among the three great departments, the charitable institutions, the prisons, and the hospitals for the insane. In respect of the visitorial power, it may be questioned whether the legislature has not exceeded the sanction of the constitution in making fresh grants of this power since the constitution was adopted. Visitorial powers that had vested prior to the constitution were expressly preserved by it (Art. VIII, § 13). Irrespective of this question of constitutionality, with the mere suggestion of which I am content, it is important to call attention to the multifariousness with which the grant of this power has been attended.

As Mr. Herbert F. Prescott, formerly Deputy Fiscal Supervisor, pointed out to the legislature at its extra session in 1914 (Ass. Doc. 2):

> "The institutions in the charities group are visited and inspected by ten state departments and two private associations. In addition to the Fiscal Supervisor and the State Board of Charities the investigating bodies include the State Charities Aid Association, State Architect, Commissioner of Efficiency and Economy, State Fire Marshal, Commissioner of Health, Commission of Prisons, New York Prison Association, Superintendent of Weights and Measures, Conservation Commission and the Department of Education. * * * They are overrun daily with inspectors and official visitors whose chief function appears to be to criticize conditions over which the managers have practically no control. This fact is quite as well known to the inspectors as to the managers and for several years past it has been common for the inspectors of one department to criticize another department over the shoulders of the managers by pointing out that the managers are not to blame for the conditions criticized. The effect is demoralizing."

(NOTE: Two of these departments have since been abolished, the State Fire Marshal and the Commissioner of Efficiency and Economy; but there has been added the Board of Examiners of Feeble Minded, Criminals and Other Defectives.)

Based upon my own experience as president of the board of managers of the New York State Training School for Girls at Hudson for about ten years, as well as upon the evidence before me, I believe I am safe in saying that so much of the time of the institution superintendents, as fine a body of experts as probably can be found in the United States, is given up to the struggle to see how to obey so many adverse comments and suggestions from supervising departments that they have not time and strength left to give the best there is in them to the unfortunates committed to their care.

In 1915, this state lost to Pennsylvania the services of Franklin H. Briggs, Superintendent at the New York State Training School for Boys. These are words from his letter of resignation:

> "It has become the settled policy of the state to employ trained men and women at high salaries to take charge of its institutions, and then make it impossible for them to perform the functions for

which they are employed by setting over them more than twenty departments, commissioners, boards and officials, several of them with a horde of inspectors, to prevent these same Superintendents from doing that for which they are paid."

Shifting of Powers from State Board and Local Boards of Managers.

Explicit as to visitorial powers, the framers of the constitution remained silent with respect to any system of administration for the state charitable institutions. When the constitution was adopted, or shortly prior thereto, the management of each of these institutions was in an unpaid board of managers, subject to the inspection and visitation of the State Board of Charities, and, of course, to the audit of the comptroller. By piecemeal legislation this power has been whittled away. Complete fiscal control through the revision of detailed estimates of all the expenditures was, as I have already pointed out, first conferred upon the comptroller and then upon the Fiscal Supervisor. The power to pass on plans and specifications was first given to the State Board of Charities and then transferred to the Building Improvement Commission. The power to fix salaries and establish positions was conferred upon the Salary Classification Commission. The power to determine how many employees there should be, or whether a greatly needed employee could be added, fell to the Fiscal Supervisor, limited only by the extent of the appropriation. The power to locate a new building, large or small, was conferred upon the Commission on Sites, Grounds and Buildings.

The situation has reached a point where it is surprising that persons of adequate capacity and independence can be found to serve upon these local boards. Natural initiative by these managers has been largely smothered by this system. Mr. Prescott said: "There are today more state departments assisting in running these institutions than there are institutions."

Powers Should be Concentrated in a Supervisory Board.

The remedy, however, is to be found not so much in a return of these powers to the local boards as in concentration thereof in a supervisory board, to the end that there may be less friction, greater expedition and a more definite and single responsibility.

The Bureau of Municipal Research in 1915, in writing for the constitutional convention said:

> "In the division of charitable institutions and reformatories, the duplication of inspection plainly results in unnecessary waste of effort, annoyance to institutions, and lack of thorough accom-

plishment of the aim of the state. It is one thing for the state to grant the right of entry and full powers of inspection to an outside, privately managed organization like the State Charities Aid Association, or the New York Prison Association, in order to insure, at the expense of private citizenship organizations, the widest publicity concerning the operations of these institutions about which baseless rumors always exist and in which there is constant danger of maladministration. It is quite another thing to provide at state expense for mandatory inspection and supervision, in order to insure efficient and economic administration and to know that the law is obeyed and is adequate to accomplish the full purposes of state responsibility. The latter kind of inspection implies costly and well organized expert service, and there is no reason why it should be divided among many independent or badly co-ordinated departments or should work at cross purposes and operate to stifle and discourage initiative and enterprise on the part of the administrators of the law."

One Layer of Legislation upon Another.

Legislation is in the main responsible for this "multiplicity of control and division of responsibility." There are many sad evidences of failure, and even unwillingness, on the part of some of the departments to co-operate. Following the adoption of the constitution of 1894, and down to the close of the legislative session of 1915, there was enacted such a mass of legislation relating to the administration and supervision of state charitable institutions that it defies my powers to tell just where the responsibilities for the discharge of many important functions lies. In particular, the dissection and distribution by legislative enactment of powers and duties among the State Board of Charities, the Fiscal Supervisor, the Comptroller, the State Architect, and some of the smaller commissions, usually taking the form of new legislation without repeal of old, make it impossible often to say who is the responsible officer. It seems to have been a process of placing one layer upon another layer, until the patchwork has grown thick. Institutional heads in bewilderment turn not to the law, but render obedience unto any and all who make demand.

Although the Fiscal Supervisor has been given the power of "supervising the fiscal affairs of the institutions," as stated by the attorney-general, and it is conceded that in practice he is in absolute control of

the fiscal affairs of the institutions, nevertheless, in the Finance Law it is provided that "the Comptroller shall superintend the fiscal affairs of the State," and the State Board of Charities retains the power to ascertain as to the economical expenditure of money and the condition of the finances generally in the institutions, and it is its duty to "aid in securing economic administration."

Although the attorney-general has held that the Fiscal Supervisor may not supervise the institutions in respect to their policies, the Deputy Fiscal Supervisor advises me that today it is the general conception that the Fiscal Supervisor "manages and controls in everything, functional as well as fiscal, all the activities of the several institutions. It may be said that this conception is justified by statute to some extent."

To add to the confusion, the attorney-general has held that the Fiscal Supervisor has absolute control, and the same attorney-general has held that the Fiscal Supervisor has only advisory powers, in passing upon the estimates of expenses; while the State Board of Charities, which has in practice completely retired from the field of fiscal supervision, nevertheless by law may call to the attention of an institution any defect or abuse in its administration, and the institution *shall correct it,* in accordance with the advice of the board. This would cover the economical expenditure of institutional appropriations.

Under § 48 of the State Charities Law, the Fiscal Supervisor must approve a contract for supplies required at any state institution not purchased under joint contract; under § 16 of the State Finance Law, the Comptroller must approve such contract where it exceeds $1,000 in amount. In one case presented to me, an institution had pressing need of an automobile. The Fiscal Supervisor approved the contract on the ground the car was needed; the Comptroller disapproved it on the ground it was not. Institution treasurers must make monthly reports in detail of receipts and expenditures, not only to the Fiscal Supervisor, but to the Comptroller. The same is true as to affidavits and vouchers. The same is true as to inventories. The annual reports of the institutions must be made both to the Fiscal Supervisor and to the State Board. Under § 49 of the State Charities Law, the Fiscal Supervisor has the power to audit all bills for construction work in cases where the State Architect has drawn the plans. In 1914 this power was conferred upon the Comptroller, but whether or not that power is exclusive in him does not appear (Laws of 1914, C. 111). In precisely

the same words the State Board and the Fiscal Supervisor are charged with the duty of investigating the condition of grounds, buildings and other property. Both the Fiscal Supervisor and the Comptroller are given authority to prescribe forms of accounts for the institutions. Whose prescriptions shall be followed it does not appear. Both the Fiscal Supervisor and the State Board of Charities are charged with the duty of reporting annually to the legislature with respect to appropriations requisite for the state institutions. Both the Comptroller and the Fiscal Supervisor may authorize institutional estimates of expenses "for a period beyond that for which such estimate is ordinarily made." Although in 1913 the Fiscal Supervisor was required by law to pass on every detail of the estimates, in that year a law was passed requiring the institution to give immediate notice to the Comptroller of the incurring of any liability of any nature, and also to deliver to him a duplicate of the invoice of all supplies and materials. In practice, this has given rise to the so-called "order system," under which both the Comptroller and the Fiscal Supervisor obtain copies of every order.

Illustrations of these duplications and inconsistencies in the statutes could be multiplied almost indefinitely. The record of my examination of the Fiscal Supervisor and some of the exhibits reveal the situation as it was presented to me. Further elaboration of detail in this report would hardly serve to make the point clearer.

Revision of the State Charities Law and the Poor Law Much Needed.

The State Charities Law should present a comprehensive basis for the natural leadership of the State Board of Charities toward an orderly development of the state institutional service. To illustrate: the central supervising body should be enabled, by the adoption of rules relating to the reception and retention of inmates in the state institutions, to define the scope of institutional work so that the interests of the state at large shall be best conserved; it should determine the maximum capacity of the several institutions, having that broader view of the needs of the whole than any local board of managers could have.

The ten articles in the State Charities Law relating specifically to the several state institutions should be rewritten, with a view to preservation of what is best in each for the enjoyment of all and for the sake of simplicity and uniformity. Section eleven should be repealed. It exempts the New York State Soldiers and Sailors' Home at Bath from the management and control of the State Board. It was passed to please the veterans who had not relished a much-needed special investi-

gation of the local management. The investigation was ably conducted by Justice Eugene A. Philbin, then a member of the State Board. The enactment of the statute accomplished absolutely nothing. It purports to take away from the State Board that which it has not, namely, "management and control," and to re-affirm that which could not be in any way affected by the legislature, namely, the right to visit and inspect. It is one of those excrescences on the law which should be removed.

The State Comptroller has recently expressed the view that no one can tell from the law which locality in many cases is properly chargeable with the support of children committed by the courts. Uncertainty as to payments should be removed. The law is utterly without uniformity as to who may apply to the several state institutions for the admission of an inmate and upon what form of papers.

The Poor Law should not consist mainly of negatives and checks, but into it should be written the substance of sound relief principles. I have not had the opportunity to give adequate consideration to the work of the town overseers of the poor, but I am much impressed with the recommendation that they should be abolished and that both outdoor or home relief and institutional control should be vested in one Superintendent of the Poor in each county, to be appointed from eligible lists. The power of commitment should be centralized in the Superintendent of the Poor.

What is needed is a thorough revision of the statutory law, line for line, and a codification of the laws relating to charities, after the legislative and the executive departments have determined what, if any, new methods of state administration should be adopted.

The State Board of Charities.

Personnel.

The State Board of Charities has now a membership of twelve, one from each of the nine judicial districts of the state, and three additional from New York City. During the hearings there was one vacancy and I examined the remaining eleven members. During the progress of the investigation, one, Mr. Mulry, died, and the two vacancies have been filled. In so far as this report touches on the personnel of the board, it should be understood not to relate to the two new members.

There are no specifications in the statute as to qualifications for membership, either as to sex, age, pursuit, politics, religion or otherwise; but district representation is imperative.

I cannot say too early in this report that the people of the State of New York should be, and doubtless are, profoundly grateful to the State Board of Charities, especially in view of the devoted, unselfish and uncompensated service of many of its members over long periods of years. Some have been men of national distinction in social service. Political or partisan considerations have never controlled its course. There has been conspicuous improvement in the administration of institutions generally, state, county, city and private, since the creation of the board in 1867. Much of this is unquestionably attributable to the aid and encouragement of the State Board.

William Rhinelander Stewart, the present president of the board, has made this work his chief pursuit in life since 1882. He has been president, with one short interim which was of his own seeking, since 1894. He has expended from his private funds in advancing the interests of the board. He has attended 214 out of a possible 238 meetings of the board in thirty-four years. In the last eight years, he has visited 141 state institutions, 3 county institutions, 87 municipal institutions and 82 private institutions, a total of 313; and in the same period he has attended a total of 500 meetings concerned with state charitable interests. There are few cases of such persistent devotion to public duty.

But the question of this day is: has the state of New York the best known system for the care and supervision of the unfortunates within its domain; is the record of the State Board with its present limitations, such as, on the whole, to justify the faith that it can fully perform the part that should be assigned to it under that system. The problem is, have we a system which will permit of the best possible administration in the hands of good officials, and the least harmful administration in the hands of poor officials. "Good personnel may make a bad system work for a time, and bad personnel may ruin a good one; but, in the long run, any system will follow its inherent tendencies." (Robert W. Kelso, Secretary Massachusetts State Board of Charity.)

I have never regarded the acceptance of my commission as an engagement to enter into a man hunt for the purpose of making a finding that might lead to the removal from office of this or that man, or this or that board or commission. I have from the beginning striven to treat the problem impersonally, so far as it might be, and shall so treat it now. It is an investigation into a system. What is the system? What has the system produced?

The absence in the law of specifications as to qualifications for membership need not have led to executive carelessness or indifference in making appointments to the board, but it probably has. At any rate, it would seem to me that at the time of appointment only a minor fraction of the State Board had special qualifications for the post. One of the members testified that "Frequently there are men on the board of no special qualification." It is important to note that the legislature has prescribed specific professional qualifications for two of the three memberships in the Hospital Commission, which supervises the insane (Laws 1909, C. 32), for the Commissioner of Health, and for four of the six members of the Public Health Council (Laws 1913, C. 559).

The average age of the eleven members of the State Board at the time of my examinations was 66-67. Opinions will differ as to whether it is likely that a board of that average age will serve with as great a degree of efficiency as a board of younger men. It would seem probable that it is difficult to obtain the gratuitous service of capable men upon such a board as this until they have reached an independent competence, which is usually late in life, but I am not at all of the belief that it cannot be done, if the place is one of sufficient power and dignity to make it potential for a high quality of service to the state.

Powers and Duties.

The powers and duties of the State Board may, in general, be said to relate to visitation, inspection, supervision and investigation of the institutions specified in the constitution; to the safeguarding of payments by muncipalities and other political subdivisions of the state to private institutions for care, support and maintenance, by establishing rules for the reception and retention of inmates therein; to the administration of the affairs of the state, alien and Indian poor; to the collection of statistical data; to promoting the interests of the institutions and their inmates; to securing for the state economical administration of the state institutions; to advising the executive and the legislature upon these and kindred subjects. A more detailed reference to the powers and duties of the State Board has already been made in the preceding observations upon the statutory law.

Staff.

The staff of the board consists of the Secretary, paid $6,000 per annum, who is the only employee not taken from the civil service lists, and 53 other employees, including a Superintendent of State and Alien Poor at $3,500 per annum, and a Superintendent of Inspection at $3,000 per annum. There are 16 inspectors of whom 8, in the Department of

Inspection, visit private institutions, and 8, in the Department of State and Alien Poor, visit public institutions. In the Department of State and Alien Poor, there is a Bureau of Analysis and Investigation, concerned chiefly with a study of the problem of the feeble minded and with psychological tests to determine feeble-mindedness.

Payroll.

The cost to the state for salaries and traveling expenses of the State Board of Charities in 1901 was $51,305.87; and in 1915 it had reached $97,756.40. There is nothing in the reports of the board that indicates clearly that the appropriation requested for official salaries in the Department of State and Alien Poor is other than for the services of employees engaged in the work of maintaining and relieving the state, nonresident and Indian poor; yet the fact is that much of the money appropriated was expended for salaries of employees engaged in inspecting state institutions in which such poor are not congregated, in visiting placed-out children, almshouses, hospitals and schools for the deaf, in making transfers in private institutions, and for the Bureau of Analysis and Investigation, which is engaged chiefly in gathering statistics relating to the feeble-minded and making psychological tests. Just why the cost of these services is included under the inappropriate title "State and Alien Poor" is not apparent, nor does it appear that the legislature, in its detailed appropriation bill, understood this. I do not intimate that there is anything covert in this arrangement. The service actually embraced was indispensable to the discharge of the statutory functions of the State Board. However, a reclassification of the staff of the State Board under more appropriate titles might serve to give the appropriating power and the public a more accurate notion of the real needs of the department and the use by it of the funds appropriated.

Meetings.

Prior to the adoption of the constitution of 1894, the State Board held from five to six meetings in the year. Since then, the average number of meetings has been from eight to nine, at which the average attendance of the twelve members has been from eight to nine. One of the present members attended only three board meetings in each of four years. There are three members of the board who made it a practice to live out of the state each year during the three busy winter months when the legislature is in session and therefore when there is a very great opportunity for usefulness at Albany. It should be said that one of these three comes on to New York for board meetings.

Familiarity of Members with Powers and Duties.

Very few of the members possess what would seem to be reasonable familiarity with the State Charities Law, even in respect of the powers and duties of the board itself, much less as to fields of duty of the Fiscal Supervisor of State Charities, the Comptroller and the State Board and the smaller commissions respectively. Some of the members of the State Board have strange misconceptions as to the institutions, particularly the eighteen charitable and reformatory institutions maintained by the state and subject to the visitation and inspection of the board.

With a very few exceptions, the members failed to remember the particular committees of which they are members, probably because so many of the committees never meet. One member thought there were 48 state institutions in his judicial district alone. (There are only 18 in the entire state.) One did not know that the State Board cannot visit such private institutions as are not in receipt of public aid. (The Court of Appeals in 1900 decided that the State Board could not visit such institutions, and it has been a matter of state-wide discussion and, very properly, the lament of the State Board ever since.) This member thought that case applied to state institutions and had heard it said that the State Board could not inspect the Craig Colony at Sonyea. (This is the well-known state institution for epileptics, visited regularly by the State Board and furnishes the material for a considerable part of its annual report.) Many of the members have no idea of the cost of the board to the state; one would not like to say it was as much as $25,000 a year; another, who was on the committee on finance, put it at considerably less than $30,000. (For salaries and traveling expenses alone it was, in fact, over $97,000 in 1915.) One could not say whether the board had anything to do with appropriations for state institutions. (This is one of the most important duties of the board under the State Charities Law.) One who had been a member of the board for four years was not sure of the names of some of the other members of the board. Two did not know that the board had anything to do with the Indian poor. (This subject is dealt with at length in every annual report.) One never had visited any one of the 18 state institutions, although a member for four years. One thought the duties of the Fiscal Supervisor should be discharged by the Attorney General. (The duties of the Fiscal Supervisor are set forth in the State Charities Law and it is a matter of common knowledge that they relate to fiscal affairs only and that the chief law officer would probably be the last in the state who should

be called upon for this.) Many of the members did not know that the board possessed any power with respect to transfers of inmates from one state institution to another state institution. (A grant of this power was recommended to the legislature by Governor Higgins, and when it was given it was regarded as of large importance.) Most of the members thought that the State Board still possessed the power to approve or disapprove plans and specifications for state institution buildings. (This power was taken away from the board in 1902, and it has been the desire of the President of the State Board to see it returned to that board, although he is a member of the Building Improvement Commission, upon which this power was conferred.) One member serving upon the committee of the State Board on the Soldiers' and Sailors' Home at Bath, did not know that the legislature had provided that the home should be exempted from the "management" of the State Board. One member had never heard of the institution known as the Tramp Farm at Greenhaven. (This is one of the 18 state institutions subject to the visitation of the State Board, was authorized in 1911, and, although not yet opened, is dealt with at length by the State Board in its annual reports.) Some members of the committee on legislation and the committee on legal questions had made no study of, and indeed had no knowledge of, the overlapping and conflicting of legislative requirements upon the several boards and commissions. One member of the committee on idiots and feeble-minded had never heard of the suggestion that has been talked of from one end of the state to the other, among persons especially interested, that there should be created a new state department for the supervision of the feeble-minded, and he had not considered the fundamental question whether the best care of the feeble-minded calls for the treatment in the same institutions of all ages and both sexes. One member did not know that the board had any duty with respect to the sanitary condition of buildings or measures for the protection of the health of inmates. (This is one of the express statutory duties of the State Board and has been for many years.) One did not know of the existence of the Salary Classification Commission. (This Commission classifies all positions and fixes the minimum and maximum of salaries in all the state charitable institutions.) Another did not know of the existence of the Building Improvement Commission. (This is the commission of which the President of the State Board is a member and passes authoritatively upon all building plans

for state institutions.) One member of the committee on idiots and feeble-minded, having special charge of the five institutions for the feeble-minded and visiting the same regularly, thought that at the Syracuse institution there were only girls. (In fact there were 322 boys and 329 girls at that institution during the last year.) He thought Letchworth Village had only males. (There were 69 female inmates out of a total of 303.) He thought at first that at the Rome institution there were only boys, and later said boys and girls. (It has 537 females, besides males of all ages.) One member thought that a possible result of the mental tests at the new Laboratory of Social Hygiene at Bedford would be to send the girls either to the Hudson Reformatory or to Bedford. (All the girls submitted to the tests have been committed to Bedford and are beyond the age limit of girls receivable at Hudson.) One member of long standing thought the State Board is now authorized by law to visit the insane asylums. (This right was abolished by the constitutional convention of 1894.) He also thought that the great new institution for the feeble-minded at Letchworth Village was entirely the result of State Board agitation, and thought the "State Board of Charities had made the present Lunacy Commission and all that is good in the state asylums." One did not know that Governor Whitman, in his annual message to the legislature for 1916, had made any recommendation relating to the site of the Yorktown School for Boys, and two of the members did not know that he had touched upon the office of the Fiscal Supervisor, except in some comparatively unimportant detail. (The Governor had recommended the abolition of the office of Fiscal Supervisor and the abandonment of the Yorktown School site.) One could not tell whether there are 200 or 1,000 institutions visited by the State Board. (The fact is there are 775.) One thought that the report of a recent special investigation by the State Board of one of the state institutions in his own immediate neighborhood contained no serious criticisms and that the investigation was called for by the legislature. (It was made at the request of the president of the local board and the criticisms dealt vigorously with such material matters as overcrowding in the institution and the segregation of white and colored inmates.) One thought there is a state institution for defective delinquents. (There is no such institution and never has been, and the State Board has recently, in its annual report urged the necessity of it.) One did not know that the legislature had enacted any law recently relating to the commitment and

detention of the feeble-minded. (This has attracted wide-spread attention among students of this subject and has given the courts control over the feeble-minded similar to that over the insane, Laws 1914, C. 361).

Certain Views.

It is my duty to call attention to certain views held by some of the members of the board, comment upon which would be superfluous. One member of the board, speaking of children in an infant asylum, said: "I honestly believe that it is really better for those unfortunate children to die than to live"; and he doubted, therefore, whether he did a good thing in helping to reduce the death rate in a certain asylum from 96 per cent. to 25 per cent. This view may have been once widely entertained, but modern care in the treatment of the most miserable infants, particularly in good foster homes, has produced such results that a statement of this kind from such source is shocking.

One member, when asked if the State Board's inspectors should call the attention of institutional authorities to the presence of "a scurrying menagerie" of bed bugs, testified that:

> "Why, as regards to bed-bugs and lice and so on, they are generally scavengers that are looking for filth to live on, and they are not harmful in themselves, in fact they are sometimes useful in cleaning up a dirty child; they are harmful only in one respect, that they may convey contagious diseases." He also said that both baths and bed-bugs "are useful in cleaning up a dirty child."

If these statements were made seriously, they speak for themselves; if, as seems probable, they were intended as a bit of humor, one can only feel that the occasion did not warrant it. He later testified that it is desirable to get rid of bed bugs, but where there are visitors from tenements he did not believe it could be done.

Another member testified that, although in thirteen of the sixteen opened state institutions there are female inmates, he wanted no women on the State Board, because it would "weaken our appropriating power," (I shall endeavor to point out that the State Board has at present, for all practical purposes, no appropriating *power* whatever); and that he would as soon suggest putting women on the Board of Regents as on the State Board of Charities. Why a woman should not be on the Board of Regents, he did not say.

Finally, there is the statement presented by the State Board to which I shall subsequently refer, in which the board said, in speaking of the women at the Bedford Reformatory:

> "Vicious women of hysterical temperament cannot be reformed. * * * The State Board of Charities has always said the attempt to reform women is an experiment."

The Secretary of the Board.

In March, 1915, the Secretary of the State Board, Mr. Hebberd, called upon Corporation Counsel Frank L. Polk, and made to him certain statements. These statements related to the pending charges, preferred by Commissioner Kingsbury of the Department of Public Charities, against Mrs. Dunphy, superintendent of the City's Schools on Randall's Island. Mr. Polk and Mayor Mitchel, to whom the incident was reported, understood that the Secretary had threatened that the State Board would investigate the City Department if the charges against Mrs. Dunphy were pressed. Mr. Hebberd and the late Thomas M. Mulry, who was also present, disclaimed that Mr. Hebberd had intended to make a threat. Subsequently to the receipt of this testimony and before counsel submitted the case to me, Mr. Hebberd resigned his office. His resignation was accepted and counsel for the State Board assigned the circumstances which I have related as the reason therefor without assenting to the view taken by the representatives of the city. In view of this resignation, and its acceptance by the board, and my purpose, as already declared, to deal, as far as practicable, impersonally, I cannot see that it would be useful to report further upon this subject, except to say that it does not appear that the State Board expressly authorized this interview. But in view of the well known authority of the Secretary and his duties under the by-laws of the board, it may fairly be said that the board became responsible for the interview.

For the same reason, I shall not discuss in detail the evidence before me which discloses that the Secretary lapsed, from time to time, into offensive characterizations of fellow workers in the field of charity. I cannot refrain from the conclusion that in this way he greatly impaired the expert efficiency which he possessed in high degree, and correspondingly curtailed his usefulness to the state. The Secretary, under the by-laws, is the medium of communication between the board and all to whom it sends a message. Coöperation obviously is the duty of the State Board. Indeed, it is the essence of the spirit that created it. How far all the

members, or any member, knew of the growing isolation of the board, arising in part out of unwillingness or inability to coöperate with it or seek help from it, does not appear. But this they should have known and would have known, had they taken hold with a firmer grasp. Doubtless the remedy which they have now applied would have been earlier applied if they had been less dependent upon a paid subordinate.

Power over the Local Boards.

There is an extraordinary failure on the part of nearly every member of the State Board to appreciate the extent of the board's own power over the local boards of managers. They all knew that, under certain exceptional conditions of abuse and neglect of inmates, they could issue an order, after approval by the Supreme Court, directing modification of the treatment. Such order is not limited to such conditions. The testimony shows this power never has been exercised. There has never been an application to the court. But none of the members of the State Board seemed to appreciate, or even to know of the provision of § 15 of the State Charities Law. Mr. Hebberd, the Secretary, knew of it and said: "There is no greater force in the whole state." The provision is very simple, and in substance is that the State Board shall call the attention of the managers of any institution subject to its supervision to any abuses, defects or evils which may be found therein, and such managers SHALL take proper action thereon, with a view to correcting the same, *in accordance with the advice of such Board.* The President of the State Board said: "I know of no such law"; that if there were such law it would be unconstitutional, and that it would be difficult to find managers who would serve!

Evidence that there was no appreciation of the scope and purpose of this section is to be found in the very recent experience of the State Board with the local board of managers at the New York State Reformatory for Women at Bedford. Under the power of the State Board to conduct special investigations, in which witnesses may be called and sworn, and at the request of the president of the local board, a committee of the State Board proceeded to Bedford and, after an exhaustive inquiry, made a report which was unanimously adopted by the State Board on March 10, 1915. The board found that there were defects in the management and that a "contributing cause was the housing together of the white and the colored inmates," and that when certain new cottages shall be completed "it will be quite possible to arrange for separate housing," and "earnestly recommends that this be done." It ap-

pears that these new cottages were completed September 1, 1915, and that the local board of managers is still considering the matter. A member of the State Board testified that the local board had voted not to obey the State Board, and he wondered whether the State Board had power to enforce its recommendation. Irrespective of the merits of this question of segregation, such failure on the part of the State Board to demand prompt compliance with its advice can only serve to breed disrespect for the State Board. The imposition by statute of a penalty is not required to bring results from local boards of managers generally, and particularly from a board of the exceptional quality of that at Bedford.

Effect of Creating the Department of the Fiscal Supervisor.

The evidence before me shows conclusively that the State Board was wise in successfully contesting the creation of the office of the Superintendent of State Charities, for which, however, with some modification of power, the office of Fiscal Supervisor of State Charities was established at the same legislative session in 1902. The merits and demerits of that part of the system which is under the control of the Fiscal Supervisor will be treated in some detail hereinafter. It is sufficient to say here that from the hour of the creation of that office in 1902, the power, dignity and influence of the State Board of Charities began to wane. The President of the State Board now concedes that when the department of the Fiscal Supervisor was first created and began to recommend policies for the development of the institutions, he feared for the "future usefulness of the State Board." He said further that before the days of the Fiscal Supervisor he was often consulted by the legislative committees dealing with appropriations, but that since the creation of that office, "the advice of the State Board and the presence of the State Board has practically never been sought. Even the Governor and his Budget Committee have not sought any advice or information on the subject from the State Board of Charities or from the president of the Board for several years past, and any advice which they may have taken, so far as my information goes, has come from the Fiscal Supervisor or from one of his deputies. * * * The Fiscal Supervisor's advice has been taken and we have been powerless." The vice-president of the State Board testified that "fiscal control carries with it a suggestive power that is well nigh invulnerable." The Fiscal Supervisor himself frankly stated that in the budget conferences before the governor and his representatives late in 1915, it was he and not the

State Board that was consulted; that the State Board was neither present nor invited to be present even by representative; that since the creation of the office of Fiscal Supervisor, the State Board had almost entirely relinquished its interest in state appropriations; that the recommendations of the State Board had not been presented at these conferences, and that it did not seem worth while to bring in the State Board's representative. The present Deputy Fiscal Supervisor declares to me in writing, relative to his department, that "it is the general conception that this department manages and controls in everything, functional as well as fiscal, all the activities of the several institutions."

In a careful analytical report of a special committee of the board of managers of Letchworth Village on the system of control of the state institutions, made in 1914, it is said:

> "Through his hold upon the purse strings, *the Fiscal Supervisor has far greater power than the state board of charities* or any other department having to do with charitable institutions. No part of any appropriation can be spent until estimates have been presented in detail to the fiscal supervisor and approved by him. The system of expenditures upon allotments makes the institution completely dependent upon him. No recommendation of the state board of charities, salary classification commission, or state architect, that involves the expenditure of money, can be carried into effect without the consent of the fiscal supervisor."

Representatives of the institutions have come to know that it is well to obtain the favor of the Fiscal Supervisor if they are to procure the desired appropriations, and attribute this mainly to the fact that the appropriating powers naturally prefer to consult with a single officer having fiscal control. It should be remembered that the statutory powers and duties of the Fiscal Supervisor and the State Board, in respect of recommendations for state institutional appropriations are substantially identical, and so an opinion of the attorney-general discloses.

Highly competent outside observers testified that the creation of the office of Fiscal Supervisor "tended to deplete and destroy the influence of the State Board", (Dr. Thomas W. Salmon, of the National Bureau for Mental Hygiene and probably the foremost collector in the country of statistical information relating to state boards of charities); and the State

Board can make as many recommendations as they wish, to the legislature or anyone else, but they have not the power to put them into effect (Mr. Homer Folks, Secretary, State Charities Aid Association).

There is in evidence a letter to the President of the State Board which I wrote some years ago, as president of the local board of managers of the New York State Training School for Girls at Hudson. In this letter I expressed my appreciation to the president for his services to the institution, but was obliged to tell him that I did not see how we could follow his recommendation as to architectural advice that we needed at the institution because I doubted "if the Fiscal Supervisor would authorize it".

One result of all this has obviously been to cause the representatives of state institutions to drift away, little by little, from contact with the State Board. Practically all that is left of this contact, which should be close, unintermittent and that of leadership, is the yearly visit of the president of the State Board and one of the inspectors of the board, and an occasional visit of other members of the board.

The Spirit of the Board's Inspection.

There was considerable condemnation before me of the methods and spirit of the board's inspection in the sixteen opened state institutions, on the ground that it is characterized mainly by attention to petty detail and that it is destructive and without constructive suggestion. On the whole, I think this is not justified. The intention of the State Board has been to help and to build up. The general effectiveness of the exercise of its visitorial power in recent years is another matter.

General Attitude of Aloofness.

I have already referred to the extent to which the effectiveness of the State Board has been impaired by reason of the creation of the office of the Fiscal Supervisor. That was something for which the board was, of course, not responsible. But there are considerations which have made for ineffectiveness for which the State Board is responsible. Most of this is attributable to the general attitude of the board. It seems to me that it touches things too lightly. As one witness put it: "It is not the habit of the board to take aggressive action in following out its recommendations." In these observations I am referring to the course of the board generally with respect to the eighteen state charitable institutions. With the course of the board in the matter of inspection of private charitable institutions in New York City I shall deal in a later part of this report.

The President of the board said: "I am not willing to subject myself or the State Board, with constitutional authority, to rebuff from high

quarters." Another member said: "We make no personal appeals to the legislature or governor. The policy of the board is to answer questions when asked, make recommendations formally and in writing, and let it go at that. * * * Recommending appropriations is a privilege, not a duty. Often we do not even recommend." A former member of the board said: "We merely passed upon what was submitted to us." Another member admitted that there are absolutely no results from the present negative policy of the board in such matters, that failure to importune the legislature and governor in setting forth the needs of the institutions was probably the cause of the failure of the board to advance the great projects which it favored; and yet he insisted that the course of the board was right. Another member said: "My fundamental proposition is to keep things out of the newspapers."

The Board and Letchworth Village.

There are many illustrations of this policy of aloofness, this failure to drive hard enough. Take the case of Letchworth Village—a splendid new project in Rockland County for the care and training of the feeble-minded of all types and ages and both sexes, possessing a plot of 2,000 acres on a beautiful site overlooking the Hudson. It was established in 1907. There are perhaps only about 5,000 of the feeble-minded, excluding epileptics, under institutional care in this state, and there are 22,000 such persons, conservatively estimated, whose liberty in the state is a menace to society. The plans call for a population of 2,500 to 3,000. And yet, after eight years, the total capacity of the completed buildings is 330. There is no doubt that the State Board urged the establishment of this institution, that its president was one of the commissioners that selected the site, and that he has always been deeply interested in the institution, and that the board in its annual reports and through a personal visit of its president to Governor Glynn has urged adequate appropriations. This year, for example, the board called for $306,000 for the institution, in addition to ordinary maintenance. (The appropriating act provides for $97,500.) But these annual reports are printed late in the session of the legislature, that for 1915 having been transmitted on March 27, 1916; that for 1914 transmitted on February 15, 1915; that for 1913 transmitted on March 16, 1914; and it is a matter of common knowledge that communications made in this form and at that date in the session are usually ineffectual irrespective of the source. One year the State Board asked in its annual report for the sum of $657,500 for Letchworth Village, and the legislature gave $500. One of the members of the local board testified

before me that the State Board had done little for the institution beyond the request in its annual report, and one of the members of the State Board, in conceding the failure of the State Board to do more than this, and in endeavoring to excuse that failure, said: "We are not an administrative body. We can only recommend."

The Board and the New York State Training School for Boys.

Take the case of the New York State Training School for Boys at Yorktown Heights, greatly needed and planned as a reformatory of the modern cottage type to take the place, as far as might be, of the Randall's Island reformatory, belonging to the congregate type. It was established in 1904. After appropriations by the state of over $800,000, a large part of which was expended, the institution has never been opened for inmates, and in 1916 the governor and legislature decreed the abandonment of the site. The pecuniary loss cannot be far from the total expenditure. It is not within my province to discuss whether the desire of the City of New York for a pure water supply necessitated this result, but it is my duty to consider the part the State Board has had in all this. Here again, by appeal in the annual reports and by personal communications between the president and former governors the State Board sought to get adequate appropriations and to end the snarl and delay over plans in the office of the State Architect. And yet the president of the local board testified before me that the State Board did not take enough interest in the impending fate of the institution to "make the Board a factor," and one member of the board said little had been done outside of the annual reports. On the whole, this is not just to the State Board, but there can be no doubt that the influence of the State Board during the recent crisis was negligible. One member of the State Board testified before me that the board felt the site ought not to be abandoned and the money of the state wasted, and that the board had known for months that there was danger of complete failure unless tremendous pressure was brought to bear; and yet the board sent no word to the governor in expression of its view. When the board knew that the governor had recommended the abandonment of the site by reason of danger of pollution of the water supply, it contented itself with transmitting its customary annual report to the legislature in March, 1916, in which it spoke of the "hue and cry" and "condition of hysteria" on the subject of water pollution, and urged the appropriations necessary to open the institution for inmates. The Governor wrote the President of the Merchants' Association in the City of New York a letter in Novem-

ber, 1915, in which he said he would "ask the heads of the various departments of the city and state concerned to study over the situation and report to me for my guidance in advising the legislature as to any new legislation." It is not for me to say why the Governor did not subsequently include the State Board of Charities, the board charged by law with the supervision and encouragement and development of institutions, in his invitation to help and advise. It appears, however, that he did not do so. The inference is plain that the State Board had made itself so little felt that it was perhaps forgotten. When the Governor's message was sent in to the legislature in January, 1916, advising the abandonment of the site, the State Board at its subsequent meetings did not even discuss the message. One member of the State Board said he would not have the State Board oppose the Governor in the matter of Yorktown even if he knew the Governor was wrong. Although the welfare of the herded inmates on Randall's Island was involved, it would be "a political fight," he said, and "not within the province of the Board".

The Board and Newly Authorized Institutions.

Take the case of newly authorized institutions which must be put upon their feet. One member of the board said: "The State Board does not regard itself as charged with any responsibility in regard to new institutions." The President of the board said: "There has been a great need for some years for the new Reformatory for Misdemeanants. It was authorized in 1912, but it is not now even located." The State Board says in its last annual report:

> "For many years the necessity of a state institution for male misdemeanants between sixteen and twenty-one years of age has been admitted by all who have given serious consideration to the various measures proposed for the prevention of delinquency and crime. * * * It is intended to differ in character essentially from a prison, and to be a reformatory in the best sense of the term—an institution in which education and corrective discipline will prepare young men of disorderly tendencies for useful citizenship."

The extent of the impression all this has made on the State Board is revealed in the testimony of its president, who, when asked under whose jurisdiction this institution was, said: "I think it is under ours. It is on my list of charitable institutions here. There is nobody there yet, I think. I do not know of anything in particular that the board has done

about getting a place for that except to recommend the institution as necessary. I do not think any appropriation has been made for it even, but the board has done what it could." When asked what that consisted of, he replied: "I shall have to find out. I have not got it in my mind. It is not an open institution. I do not recall any specific thing that has been done toward obtaining the progress of that institution further than our annual recommendation to the legislature contained in the printed report."

The Board and Appropriations for new Buildings.

The Fiscal Supervisor testified that he did not know of anyone in a supervisory capacity who had more than a perfunctory interest in appropriations for new buildings. He said:

> "Maybe the State Board of Charities has it by statute, but they haven't exercised it. The State Board of Charities, I believe, is on record as asking for another women's reformatory in the western part of the state—and has not gotten beyond the introductory stage, but during that time there have been other bodies who have wanted buildings and have come forward and gotten them. The State Board of Charities hasn't been on the job if they feel they have been neglected in any way. They haven't asserted what they should assert if they have the right."

The State Board regards the removal of the Syracuse State Institution for Feeble Minded Children from its narrow confines in the city to the open country as "a crying need," and yet the board has contented itself with its printed recommendation in its annual report calling for the removal and the appropriations needed.

The Board and County Almshouses.

Recently a member of the State Board found a county almshouse in such condition that he calls it "a disgrace and a firetrap," and says that it had been such for years. But he can only say that the Superintendent of State and Alien Poor visited the place and that the President of the State Board wrote a letter to the county supervisor, but he was not sure of this. If there were ever a case for the exercise of the power of the board to call for obedience to its recommendations under a court order, this would seem to be the case. But the board has never exercised that power.

Conditions at the Westchester County Almshouse afford a startling illustration of State Board complacency in the face of danger. In 1908 the State Board's inspector reported that thirty-four men, sleeping on

the third floor of the laundry building were in serious danger of loss of life from fire. There was a wooden staircase at one end, only 2½ feet wide at one point. There were no fire escapes. These same conditions were reported in 1912, and still prevailed, except as to the number of occupants of the room, when Mr. V. Everit Macy became County Superintendent of Poor on January 1, 1914. In the general hospital at the same place there was a serious fire hazard to 180 inmates that was not mentioned in any report. This almshouse, for some years prior to January 1, 1914, was rated by the State Board in the first class as to administration; yet on January 1, 1914, all supplies were purchased without competitive bidding, no physical examination of inmates was made upon admission, and little effort was made to secure useful service from able-bodied inmates.

In 1907 the State Charities Aid Association discovered distressing conditions in the Oneida County Almshouse. The sick were confined in dark, unventilated rooms and the hospital care and equipment were unworthy the name. The place was over run by tramps who frequented neighboring saloons. The conditions were called to the attention of a member of the State Board, who expressed concern that the board's inspectors had not reported it. Three of the inspectors were then detailed for a special visit to this institution and their report fully confirmed what had already been found. Improvements were then demanded by the two bodies and finally obtained.

In the Rensselaer County almshouse in 1908, representatives of the State Charities Aid Association came upon a dark attic full of beds used by tramps and paupers, many diseased, a place so dark that reading in it on a bright day was almost impossible except close to the window. After much publicity and pressure, conditions there were improved.

The Board and Economy in Salary Rolls.

There is elaborate machinery for estimating desired appropriations for salaries of the employees at the state institutions and for commissions to establish grades and define and classify existing positions and authorize new positions, and for the approval of detailed estimates for the money required to pay these salaries. But nowhere at Albany is there anyone who considers himself charged with the duty of cutting out needless or obsolete positions in the charitable institutional service, or to insist upon reduction of salaries down to the minimum fixed by the Salary Classification Commission. A member of the State Board

said that this was the Fiscal Supervisor's business; the Fiscal Supervisor said it was no one's business.

The Board and the Laboratory for Social Hygiene at Bedford.

The circumstances attendant upon the establishment at the Bedford Reformatory of the Laboratory for Social Hygiene, through the munificence of John D. Rockefeller, Jr., are an illustration of the way in which state institution heads have learned to rely upon themselves. Mr. Rockefeller received a pamphlet entitled "A Rational Treatment of Women Convicted in the Courts of New York City," prepared by Dr. Katherine B. Davis, at the suggestion of the Committee on Criminal Courts of the Charity Organization Society. As a result of a series of discussions among Dr. Davis, Mr. Rockefeller and others, a plan was developed involving the purchase of a large tract of land adjoining the state property at Bedford, the erection of a reception hall, laboratory building and a psycopathic hospital. The purposes were: (1) To study methodology, that is, to test tests for the feeble-minded which might hereafter be used in clearing houses throughout the state. (2) To determine the special needs of each person committed to the Bedford Reformatory at the outset of her institutional career. (3) To acquire a large body of data bearing upon the causes of delinquency and prostitution among women. The study of cases was to include not only persons committed to the Bedford Reformatory, but by arrangement with the courts, certain other significant groups. The State Board has called this "the most important step in advance yet taken in the precise adaptation of remedial measures to the radical reform of the individual inmates of the institution." The point of all the foregoing in this connection is that the plans for the Laboratory of Social Hygiene were fully developed without consultation with, or the knowledge of, the State Board or any member thereof, even of the members of the committee on idiots and feeble minded. When the Secretary of the State Board learned of it officially, he wondered if it was "an advisable plan." Dr. Davis testified that it did not occur to her to confer with the State Board. It should be added that upon learning of the enterprise from the president of the local board, the State Board, particularly its president, did all it could to facilitate it.

The Board and the Reformatory at Bedford.

The view of the State Board expressed before me with respect to the Bedford Reformatory is puzzling. The president submitted a memorandum in which is summarized the history of the institution. In it the statements are made that "vicious women of hysterical temperament

cannot be reformed. * * * The State Board of Charities has always said that the attempt to reform women is an experiment. * * * It is a question whether the results to be gained are worth the titanic effort involved. Reformation must be undertaken in younger persons than those admitted to Bedford or it can hardly be attained."

These statements are in sharp contrast with other recent statements by the State Board relating to the Bedford Reformatory. In the report made in March, 1915, of its special investigation of the reformatory, the board, after speaking of the "women and girls for whom the training and discipline of this institution were most desirable," said: "Much good work has been done and is being done at this state reformatory, for which the president of the institution, Mr. James Wood, and other members of the board of managers are entitled to credit," and the board then pointed out the new features, which gave promise "of excellent results." The President of the State Board, at an earlier hearing testified before me that "the Bedford Reformatory is now open and doing useful and humane work." The State Board asked the legislature for $242,500 for this institution in 1915, and $174,500 this year. If the State Board really feels about this institution as it expressed itself in the above-mentioned memorandum, why should it not frankly urge the legislature to close the institution or convert it into another institution for the feeble-minded, so greatly needed or, more logically, see that it becomes merely a custodial institution, in fact a prison, and strip it of its educational and reformatory training, so expensive for the state to maintain. But it cannot be that the State Board really means what it says in this recent pessimistic outgiving as to the Bedford Reformatory. At the Western House of Refuge for Women at Albion, an institution for female offenders of precisely the same age and class, the State Board in its last report speaks of the "individual development" of the women. Of the State Industrial Farm Colony, intended for male tramps, the Board is hopeful and said in its last report: "Under a strong discipline conducive to habits of industry, the vagrants may be reformed and become useful citizens." Of the State Reformatory for Misdemeanants, the State Board, in speaking of the law breakers there to be committed, said in its last report: "If given suitable training and new opportunities, they are likely to become useful, self-respecting citizens."

The local board of managers of the Bedford Reformatory has reported on a study of the after life of the first 1,000 commitments. Although it

appeared that out of this 1,000 the number of those who, prior to commitment, had led sexually regular lives was almost negligible, the managers had been able to parole or send out into homes on trial 668 out of the 1,000, of whom 393 had, from time to time, been discharged for "having done well". Of these 393, the authorities, at the date of the report had ascertained that 127 were "known to be doing well", 58 of whom had married, others becoming dressmakers, office clerks, saleswomen, nurse, piano accompanist and attendant at the institution.

The Board and the Commission to Investigate Provision for the Mentally Deficient.

In the last report of the State Board is the statement that the board finds itself in substantial agreement with the general conclusions and recommendations of the State Commission to Investigate Provision for the Mentally Deficient. Several members of the State Board either had never heard of the commission, or said that the board had not acted upon its report, or that they had "just glanced at it". This was a commission of which the secretary of the board was the chairman, and from which Dr. Charles L. Dana and Dr. Stephen P. Duggan resigned, after disagreement with the chairman. This commission was appointed in 1914 and reported in 1915. It spent $10,000 and had besides, with the consent of the State Board, the use of the time of certain of the investigators in the State Board's Bureau of Analysis and Investigation. The commission caused to be introduced two bills, one for the establishment of clearing houses, which was passed and then vetoed by the governor in 1916, the other for a commission to select a site for a new and much needed institution for defective delinquent females. This bill failed, the chairman of the commission assigning lack of money as the reason. It would not appear, however, that a commission on site would need much money in the first instance. Moreover, the state was already in possession of a Commission on Sites, Grounds and Buildings, whose sole duty was to perform just that function. The chairman of the commission admitted that the report of the commission has not led to any improved methods in the care of the feeble-minded, but said that the time has been too short. The report contains no constructive suggestions as to a system of administration and control of the feeble-minded, and not a word as to the proposal so widely discussed before the recent constitutional convention and elsewhere, that there should be a new department exclusively for the supervision of the feeble-minded. It is the general view that the commission has failed to meet the expectations that prompted its creation. Specific condemnation of its findings

was made by Mr. Homer Folks, Secretary of the State Charities Aid Association, who pointed out that the main purpose of the commission was to promote adequate provision for the feeble-minded requiring custodial care, and that its recommendation that the capacity of existing institutions be increased to 2,500 each, and that a new institution be established convenient to Buffalo and the southwestern part of the state, would result in creating room for approximately 10,000 inmates in that part of the state contiguous to Rome and westward, and for only about 6,500 in the easterly and southeasterly sections of the state, whence far over half the inmates would come.

The Board and the Institutions for the Feeble-minded.

The State Board has declared itself in favor of the policy of complete sex segregation among the institutions for the feeble-minded, that is, that there should be only inmates of one sex in each institution. This is counter to the prevailing opinion among experts on this subject as far as I can ascertain it. Indeed, the State Board itself is inconsistent, for it has declared in favor of the establishment of a new institution for the feeble-minded on the lines of Letchworth Village, where both sexes are received. Further, one member of the board said: "The leading idea and purpose of the State Board is to empty the feeble-minded institutions, as far as possible, and place them (the inmates) out in homes and in the families of the state." I find, however, that the prevailing view among those competent to speak is that, however desirable a home may be for the dependent, it is conceded that the defective is best cared for in an institution.

The Board and the Transfer Law.

In 1905, it became widely appreciated that it was desirable, from time to time, to readjust the number of inmates in the several feeble-minded and reformatory institutions, in the interest of more rational classification. There was also a problem, particularly in the reformatories, the need for a solution of which was growing more and more acute. This problem arose out of the demoralization that was ensuing in the discipline of the reformatories by reason of the numerous court commitments of defective delinquents to state reformatories. To meet this, Governor Higgins, in 1905, recommended that the State Board should be given the power of transfer from one state institution to another, and the legislature acted favorably thereupon (Laws of 1905, C. 452). Although the need now is greater than was the need then, the transfer law is a dead letter. A member of the State Board testified that the board never discussed the new law, and so its employees must have taken the matter into their

own hands. The Superintendent of State and Alien Poor wrote in 1914: "The State Board of Charities does not attempt to transfer inmates of the state institutions under authority of Section 18, as there is always uncertainty relative to the success of the undertaking." Although this transfer law applies to all the charitable and reformatory institutions without exception, the secretary of the board wrote in 1914 that there was no lawful way to transfer an inmate of the state institution at Rome to the state institution known as the Craig Colony, but added that an appeal directly to the superintendent of the Colony might expedite the transfer. Finally, the institutions themselves took the matter in hand, and such institutions as the reformatories at Hudson and at Industry transferred to the Rome Asylum, and the arrangement was made through the several superintendents of the poor.

The president and secretary of the State Board attribute the failure of the transfer law to the overcrowded condition of the institutions. It is true the institutions, for the feeble-minded particularly, are usually full; but there is a worse thing than the overcrowding of institutions for the mere custodial care of the feeble-minded, bad as that is. Overcrowding of this class of defectives, who constitute a custodial problem largely, is not attended with the same objections as overcrowding of the insane or the delinquent would be, interfering in the one case with the curative, and in the other with the reformatory or educational nature of the care. The overcrowding in the institutions for the feeble-minded might be met, in part at least, by providing temporary buildings in anticipation of fresh appropriations which would be sure to follow upon such convincing proof of need. Each of these institutions, except that at Syracuse, has large tracts of land upon which there are no buildings. This "worse thing" to which I have referred, is to force the managers of a state reformatory for women or a state training school for girls to send feeble-minded women of the child-bearing age back into the counties from which they came, probably to be turned adrift upon the streets for want of another place. I have known this to happen as a result of failure of the State Board to operate under the transfer law. If the State Board handled the situation without regard to the pleasure of any institution and with sole concern for the safety of the inmates and of society generally, that transfer law would be enforced, and, in some measure at least, these abuses would be ended. In any revision of the State Charities Law, which I have said was essential, this section relating

to transfers should be amended by dispensing with the need of obtaining the consent of the governor as a condition of transfer.

The Board and the State and Alien Poor.

There can be no question that the State Board, through its department of State and Alien Poor, has saved the state, in the removal and repatriation of such poor, vastly more than the department has cost the state, and I do not find that there has been criticism of the way in which the work has been done, except in the City of New York. In 1913, Hon. George McAneny, president of the Borough of Manhattan, and Hon. George Cromwell, president of the Borough of Richmond, a committee of the Board of Estimate and Apportionment in the City of New York, made an inquiry into certain of the city departments, including the Department of Public Charities. In their report they point out that the State Board, in its annual report for 1902, had expressly recognized its share in the discharge of the duty of the state to relieve communities of the expense of maintaining dependent poor who do not establish a legal settlement in such communities, and that the State Board is charged with the duty of removing non-residents of the state from the public institutions of the city. The committee then found that from May 19, 1913, to June 18, 1913, there were 322 non-residents of New York State in Bellevue Hospital, and that of these the State Board had removed only 7. During the month of May, 1911, Bellevue Hospital referred 388 cases of aliens and non-residents to the State Board, and of these only 21 were removed, and 179 had not been examined. The conclusions of the committee were in part as follows:

> "Many thousands of dependent aliens who are a proper charge upon the steamship companies that have brought them into this country, or upon the Federal Government, not only are a heavy burden upon the City of New York for maintenance in public institutions, but they also occupy beds to the exclusion of many citizens of New York City who are in need of custodial or medical care.
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> "The State Board of Charities has not fully exercised the function of removing aliens delegated to it by law. It has, in known instances, failed to examine a substantial proportion of the aliens referred to it for investigation for deportation, and has, in other instances, removed only a small proportion of cases that seemingly should have been removed.
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> "The power of removal of non-residents is given to two State Boards in New York; namely, the State Board of Charities and the State Hospital Commission. The State Board of Charities has removed only a small proportion of the non-residents from Bellevue Hospital which the records appear to show might properly have been removed. It has removed comparatively few of the cases referred to it for removal by the Department of Public Charities."

In 1915, an alien under 16 was permitted by the Superintendent of State and Alien Poor to remain in the Westchester County Almshouse in violation of the provision of the Poor Law that children under 16 shall not be retained in almshouses. This state official took the matter up on March 31, 1915, and was assisted promptly by the local superintendent of poor, who had taken the boy under a mistake as to age. The Superintendent of State and Alien Poor did nothing further until November 4, when he wrote: "If the boy is still in the almshouse, I will try to arrange for him to return to Porto Colombo, from whence he can easily make his way to his father's home." It appeared that the local superintendent of poor, despairing of prompt attention at Albany, had secured the deportation of the boy early in May through the United States Commissioner of Immigration.

The locality which bears the burden of these dependents has no power to make removals. The State Board, which has the power to make removals, is under no pressure to make such removals, for the reason that the locality, and not the State, carries the burden. There should be a revision of the Poor Law, with certain new definitions and a readjustment of powers, so that there shall be a more prompt and equitable distribution of the relative burdens of the state and the localities. As I have already said, the Poor Law, as well as the State Charities Law should be rewritten when it has been authoritatively determined what new system, if any, of charities administration shall be written by the legislature into the law.

The Board and its Annual Report.

The method of making up the annual report of the State Board, with a side light upon the interest shown by the members in this report and their knowledge of its contents, is deserving of comment. This report is practically the only public appeal or pronouncement that the State Board makes. Beginning at least as early as 1912, and from that time to this, the State Board each year has set forth a summary of its recom-

mendations for legislation. In the report for 1915, issued in 1916, and in that for 1914, issued in 1915, and in precisely the same words, appears the following:

> "The Board desires again to emphasize the fact that it fully realizes the great necessity of seeking to prevent poverty and disease through the larger general measures in which the State may interest itself and believes they should always be regarded as of primary importance in a consideration of the subject. Among these may be enumerated: (*a*) Industrial insurance as in Germany and other countries; (*b*) Better housing, including the destruction of unduly congested areas in cities and the prevention of their reëstablishment elsewhere in such cities or in the State; (*c*) More practical education for the young, particularly along vocational lines in the public schools and the institutions for children."

These were large and important questions, well worthy of study and recommendation by the State Board. With a view to ascertaining upon what study of the facts these recommendations were based, and what the board had actually done to write these recommendations into the law, I interrogated nearly every member of the board, including the President. Not one of them could say that the board had ever acted upon these questions, and it was evident that not one of them knew there was a word in the report upon the subject. The President says that he sees all of the report before it is printed and goes over it all, and that upon a question of policy, he would know whether it was a policy determined upon by the board before a statement of it was allowed to stay in the report. He thought the board had not taken action on these questions, and at any rate, he could not recall that the board had made any recommendations for legislation upon this subject. The Secretary of the board testified that it was he who wrote that part of the annual report in the first instance.

Fiscal Supervisor of State Charities.

Creation of the Office.

Although the people of the State, in adopting the constitution of 1894, had established a complete and all-inclusive program for the visitation and inspection of the state charitable and reformatory institutions by the State Board of Charities, and the legislature had enacted laws in conformity therewith and the State Board of Charities had been continu-

ously in operation thereunder, the legislature in 1902 created a new and independent department of the state government, that of the Fiscal Supervisor of State Charities, and gave to it the power to visit and inspect the same institutions. The extent of the exercise of this power reached such proportions that, in 1913, credit was claimed by the head of the department for 558 such inspectional visits in one year, some of which had lasted for several days.

Governor Odell started out in 1901 to do away with all the local boards of managers of the state charitable institutions, and to centralize the control of all these institutions in an officer to be called the "Superintendent of Charities", retaining the State Board of Charities merely as a visitorial body. The establishment in 1902 of the department of the Fiscal Supervisor of State Charities, with the visitational power that I have mentioned, and the retention of the local boards, was a compromise. How has it worked?

Fiscal Control taken from Comptroller.

It is not particularly important what was the conception of the new department at the outset. But it is important to consider what the conditions were at that time and what were the announced anticipations for the office. For eight years there had been a bureau in the office of the comptroller which had been revising monthly estimates of expenses in the state institutions. It had not worked well. There was dissatisfaction, amounting almost to an uprising, among the institutions, and the comptroller was glad to relinquish this work. Under the provisions of the act establishing the new department of the Fiscal Supervisor, this bureau was transferred to the new department.

A member of the State Board of Charities testified that he had heard of the breakdown of the system as then administered by the comptroller, and said: "They couldn't dispose of the Comptroller, so they put this incubus upon the state body politic and called it Fiscal Supervisor. He had offices in the Capitol and a whole retinue of inspectors making money".

The cost to the state of the bureau in the comptroller's office never exceeded $17,000 during any of the four years last preceding its termination. The cost to the state of the new department, the duties of which are little greater than the old bureau, mounted from $26,000 in 1903 to $72,000 in 1915.

How Reasons for Creation of Office Have Worked Out.

The reasons of the executive for the creation of the office, may, from his message, be fairly summarized as follows: (1) To equalize per capita

costs of maintenance. (2) To put an end to unbusinesslike, undesirable and extravagant requests by the local boards of managers for improvements. Neither has been realized, and it is only fair to say that neither could be, in the very nature of things. The Fiscal Supervisor testified that per capita costs had neither been equalized nor reduced. All tabulations show that there is as wide a discrepancy in the per capita costs at the several institutions as ever. All fiscal supervisors, from 1902 to 1916, have complained of extravagant requests by local boards of annual appropriations by the legislature, and very often with reason. But, on the other hand, these local boards of managers have often found themselves confronted by a situation in which the Fiscal Supervisor could not see and would not recommend, and the State Board could see but could not make effective its recommendation. Small wonder that these devoted groups of managers throughout the State, who have the first and often the only vision, ask for much in the hope of getting a little. Illustrations by the Fiscal Supervisor of recent attempts of local boards to run after new things without regard to available appropriations are: the desire to establish laboratories at the institutions for the feeble-minded, similar in character to that at Bedford, already described herein; and the desire to establish at the state hospital for tuberculosis at Raybrook a research laboratory. It would seem to me that these laboratories are needed, and that a supervising officer should be found who will work for such things as these until he gets them.

If retrenchment and economy are the test of achievement by the department of the Fiscal Supervisor, and per capita cost is the measure thereof, it should be observed that in 1902, the first year of this office, the cost for food, clothing, housing and care was $168.97 per annum for each inmate in the state charitable institutions, and in 1913 it was $217.91. The total net per capita cost in 1902-1903 was $163.54 per annum, and in 1913-1914 it was $226.71, an increase of $63 for each inmate. In every one of the state institutions established as early as 1897, except the Craig Colony and the Rome Asylum, the average weekly cost of support was less in the five years preceding the establishment of the office of the Fiscal Supervisor than in the five years from 1910 to 1915, and, in nearly every case, less than in the five years from 1902 to 1907. The reason for the decline in the per capita cost of the two excepted institutions is obviously due to the very great increase in the number of inmates.

The Fiscal Supervisor early urged the dissolution of the Salary Classification Commission on the ground that it was little more than a vehicle to raise salaries. Then for years he urged that he be made a member of the commission, so that he could keep the salaries down. He was made a member of the commission, and during the first six months of his membership, the item "salaries and wages" in the schedule of per capita cost jumped $1.11.

One Fiscal Supervisor stated that the yearly pay roll of the institutions was 41 per cent. of the total cost of maintenance, and said that there was no doubt that $50,000 in a year could be saved without impairing the service. The present Fiscal Supervisor says that such sum was not and could not be saved, and that the ratio of salaries to total maintenance is now higher than 41 per cent. It was 45 per cent. in 1913-1914, and 47 per cent. in 1914-1915. A chief executive, assuming office in this state and determined to retrench in expenditure wherever possible, would naturally rely upon the department possessing complete fiscal control over the state charitable institutions to refuse the money asked for needless positions, if any, or to see that inmate labor was employed wherever practicable. The Fiscal Supervisor admits that he has not done this, or even attempted it, except that as to the last the department has endeavored to coöperate with the Agricultural Department. Inmate labor may be employed upon plant or buildings whenever, in the opinion of the Fiscal Supervisor, and State Architect, it is advantageous to the state (Sec. 49, S. C. L.).

The department created to cut out extravagance in the institutions itself became extravagant. The proof of this is found in the fact that the present Fiscal Supervisor has reduced the number of employees in his department from 38 to 26, and the total salary roll to the extent of $12,000-$15,000, and claims for his department the same efficiency as hitherto.

'ersonnel.

On July 1, 1915, the organization of the department of the Fiscal Supervisor stood as follows: (1) The Fiscal Supervisor, at a salary of $6,000; a first deputy, at a salary of $4,500, and two subordinates, charged generally with the duty of visitation and inspection and fiscal control. (2) The bureau of estimates, contracts and vouchers, consisting of the second deputy, at a salary of $4,000, and eight subordinates. (3) The bureau of inspection, consisting of a chief inspector at $2,500, a traveling dietist at $2,500, five inspectors, and two other subordinates,

nine in all. (4) The general office, with a chief clerk at $2,750, and seven subordinates. This shows a total of 30 persons and a salary roll of $60,920.

The duties of the traveling dietist at $2,500, were described as "looking around the kitchens and garbage cans * * * inspecting ice boxes, meat rooms, and looking after quality of food."

The same considerations which actuated me in treating impersonally, in the main, the affairs of the State Board of Charities, lead me to a like course with the office of the Fiscal Supervisor. It is the system that is at stake. In general, when I mention the Fiscal Supervisor herein, it is of the office that I speak. It should be said in justice to the present Supervisor that his second deputy, Mr. Lee, has so administered the bureau of estimates that there is less friction between the department and the institutions than has been known for years.

Fiscal Supervisor controls Functional as well as Fiscal Activities.

I have already pointed out that it is the view of the respective members of the State Board of Charities that the department of the Fiscal Supervisor has crippled the State Board and stripped it of power and influence in at least one of the most important fields of usefulness for the state institutions; that the present Deputy Fiscal Supervisor speaks of his department as managing and controlling all activities, functional as well as fiscal, in the state institutions; that competent and impartial observers from the outside have concluded that the Fiscal Supervisor has today greater power over these institutions than has the State Board of Charities; and that no recommendation of the State Board that invites the expenditure of money can be carried into effect without the consent of the Fiscal Supervisor. It may be inquired what recommendation does not involve the expenditure of money.

The annual reports of the Fiscal Supervisor from 1902 to 1915 are replete with illustrations of his exercise of the policy-making power. They consist of suggestions and recommendations as to the discipline, training, entertainment and reading material for the inmates, the closing of the Bedford Reformatory as not needed, the relations between the superintendents and the Civil Service Commission with regard to appointments, the preparation of an annual exhibition at the State Fair of the product of the institutions, culminating with the opinion that, after all, the Fiscal Supervisor should be more concerned with the welfare of the wards of the state than with the cost of the institutions, and that it is inadvisable for the state to increase its expenditures for the care

of defectives, delinquents and dependents, "the great majority of whom will never be returned to the ranks of self-sustaining citizens." I refer to a statement containing so much folly as this merely to reveal that we are getting what we might expect when the fiscal officer is permitted to encroach, from year to year, upon the power to define policies, which was intended to be vested in the local boards of managers under the supervision of the State Board of Charities.

There seems to be a realization by the present administrators of the department of the Fiscal Supervisor that there is something askew in all this. At the same time that the second deputy, who was put forward as spokesman, takes a stand on the claim that his department "manages and controls all the functional activities of the institutions", he testified that "passing upon estimates is what the Fiscal Supervisor is for. * * * Whatever there is in the Fiscal Supervisor's department must sooner or later come to the estimates. That is what we are there for." This is, of course, the real truth, back of which is another truth, that the review of the estimates is the lever by which the Fiscal Supervisor has reached the policies of the institutions. This leads directly to a consideration of the entire estimate system. Is it worth its cost?

The Estimate System.

The estimate system is founded on the provisions of Section 45 of the State Charities Law. The Hospital Commission performs the same duty in the case of the hospitals for the insane, and the Superintendent of Prisons for the prisons.

In substance, the practice among the charitable institutions is that the superintendents report to the Fiscal Supervisor quarterly, formerly monthly, upon a form called an "estimate." Upon this form are stated the amount required for the salary of every employee, and the supplies and equipment needed for the ensuing quarter. These estimates indicate the quantity and the estimated price, and contain an elaboration of detail as to the amount on hand, etc. The Fiscal Supervisor revises this estimate, and may grant or refuse any or all the desired items and increase or decrease the amount or price and alter the quality or kind. Nothing can be purchased by one of the state institutions unless the Fiscal Supervisor approves the estimate therefor. There may also be one or more re-estimates and supplemental estimates. Correspondence, sometimes extensive, is carried on between the superintendent or steward and the Fiscal Supervisor. A period of five weeks has not infrequently passed between

the date a subordinate in an institution reports to the steward a need, however trivial, and the date of the delivery of the goods. Building construction items are presented to the Fiscal Supervisor by means of special fund estimates. All estimates are sent to the Comptroller as well as to the Fiscal Supervisor. They are revised by the Fiscal Supervisor and his approval of these detailed estimates becomes an allotment by him to the institution of the legislative appropriation, *pro tanto*. To the extent that the estimate is in detail, the allotment is in precisely the same detail, no more, no less. The institution is gripped tight. It is in this way that the Fiscal Supervisor determines the dress and diet of the inmates, the books they shall read or study, the number of teachers they shall have, the extent and kind of the hospital equipment; in short, in the last analysis, administers the institution and checkmates, if he desires, the State Board of Charities as to any recommendation it may make for institutional management.

Quick action in order to avail of bargain prices in local markets is out of the question under this system, because the estimate process is in the way. In one institution, a parole agent became indispensable to the proper conduct of the institution and the Fiscal Supervisor was notified in August. After personal visits and much correspondence, the request was granted, but not until the following March, when it was found the civil service list had been exhausted.

Another institution started in October to get glass to repair its windows. It was February before it was obtained, and in the meantime the superintendent had had to pay for it out of his own pocket and trust for reimbursement.

One institution estimated in June for a barrel of hominy. The Fiscal Supervisor disallowed it, for the all-sufficient reason that "there was no purchase last year in June." Another estimated for a bottle of ink. The item was suspended because "the size of the bottle was not stated." One institution estimated for the usual quantity of typewriter paper. Item suspended without explanation. An estimate for a much needed 45-cent ruler was made three times, and every time disallowed without explanation. An estimate for 75 cents' worth of knives was reduced to 50 cents, and the delay caused an express charge upon these knives of 33 cents. Another institution in February estimated for two dozen tips at 75 cents a dozen. When April had arrived, the tips had been allowed, at a total saving of six cents, but it had taken ten letters and 20 cents in postage to do it. These illustrations might be multiplied indefinitely.

In general, the policy in the department of the Fiscal Supervisor in revising estimates during most of the period since the creation of the office has been characterized by cheapness, rather than by economy, by the denial of materials required for proper teaching, particularly in the reformatories, and by petty annoyances that have distracted the superintendents and kept them from consideration of the really great problems of the institutions. In one year the letters written by the department and one institution on the subject of the estimates amounted to 274, an average of nearly one for each working day.

The department in its annual reports has from time to time, recognized that friction existed between the institutions and the department over the working of this estimate system. In 1913, the Fiscal Supervisor suggested that he would diminish the burden upon the institutions by sending an inspector instead of writing a letter! In the following year, he procured the passage of a law giving him the power to compel an estimate every month instead of every quarter (Laws 1914, C. 517), but as yet he has not reverted to the monthly estimate. In Iowa, where the estimate system obtains, it was first operated upon a monthly basis, then quarterly, then semi-annually.

Under the law in New York, the Fiscal Supervisor has the discretion to determine the extent of the detail of the estimates. The Fiscal Supervisor has seen he must draw the line somewhere and has exercised this discretion by permitting a large number of articles to be grouped and requested under list numbers. But there are still too many refinements, by far. The fact is, the Fiscal Supervisor has carried to extremes his plan of allotment in detail based upon estimate in detail. It appears that he has taken it upon himself to establish about 60,000 appropriating allotments each year binding upon the institutions. This gives the institution heads too little latitude to purchase, ties them to the purchase of too many items that three months before they supposed they would need but afterward learned they did not need—so much as they needed something else; and often prevents them from taking advantage of a cheap market that suddenly appears.

Estimate System Should Be Continued but Modified.

There is no doubt that there is general recognition of the necessity of some form of supervision of expenditures other than the formal audit by the comptroller. If the estimate system is to continue at all, it must be modified. There should be modification in the amount of detail required in the estimate, but above all, the allotments by the

supervising officer to the institutions should be in such totals by groups as to give some latitude for independent action on the part of the institution. There should be allotments for the totals of specified broad groups within which the institution may depart in its expenditures from what was anticipated in the estimate. This proposed new plan of allotment by group totals on detailed estimates would be analogous to the new legislative plan of demanding details of past and prospective expenditures, followed by the segregation of the annual appropriations into a few large funds.

One of the critics of the present administration of the estimate system, the Bureau of Municipal Research, pointed out in 1914:

> "The present system of control of expenditures does not provide an adequate method by which to determine proper costs of the various functions undertaken by the institution. A proper cost analysis by function is the only adequate check upon extravagance.
>
> The necessity of submitting estimates before any purchase may be made or financial obligation incurred does not lead to appreciable savings; the inability to use funds when emergencies or unforeseen conditions arise must hamper the management of a new institution. That the law has been a constant irritation to the management is apparent from the correspondence."

The Bureau set forth that expenditures for maintenance are lumped under accounts showing the objects of expenditure as prescribed by the Fiscal Supervisor; that this classification affords no means of localizing excessive expenditures or waste; that there should be a set of accounts with every functional division from which periodic statements could be taken, showing the cost of maintaining every function and activity of the institution. I agree that this method points to true economy and real efficiency, and think it should be adopted by the supervising fiscal officer, not as a substitute for a modified estimate system, but in addition thereto.

The most comprehensive study of the estimate system, and also of the joint contract or central purchasing system, that has been brought to my attention is that of Mr. Henry C. Wright, for the State Charities Aid Association. He carried his study into other states and devoted a year to it, in 1909 and 1910. His conclusions in part, were: that the

fiscal supervising body should have power to restrict expenditures in aggregate, and not to control purchases in detail; that the estimate system secures low prices and equalizes the quality, and to some extent, the quantity of supplies for the several institutions, but that this saving has been offset in a measure by failure properly to guard the receipt of goods.

The Cost of the Estimate System.

I have endeavored in the foregoing to indicate what the estimate system is, its advantages and its defects. It remains to consider its cost.

As administered for most of the period since it was established in 1902, it has cost the institutions dearly in time that might better have been devoted to larger pursuits. It has cost the state sums that are difficult to estimate. In 1914-1915, it is estimated that central fiscal supervision (which all revolves around the estimate system) in the department of the Fiscal Supervisor alone cost the State $52,620. This sum was for the full time of 26 employees. The same service in the department of the Hospital Commission, cost $18,133 for the full time of two employees and the part time of eleven; and in the department of the Superintendent of Prisons $20,100 for the full time of seven employees and part time of five. Put in another way, the item of "salaries and wages" in central fiscal supervisory control was $2.21 per $1,000 of expenditure in the hospital group, $8.07 in the prison group, and $16.72 in the Fiscal Supervisor's group. To the sum of $52,620 there should be added perhaps as much more for the salaries of institution clerks engaged in reporting to the Fiscal Supervisor. Beyond all this is the sum paid clerks in the comptroller's audit bureau, which deals with the institutions. Mr. Wright ascertained that in 1909 and 1910 in Iowa, where there is a state board of control revising estimates and no state board of charities and no local boards, it cost the state $1.00 to supervise every $54.80 of expenditure by the state institutions; in Indiana, where the only state board is a state board of charities, with a modicum of recommendatory power, and where the local board is supreme and there is no estimate system, it cost the state $1.00 to supervise $78.80 of expenditure; and in New York the sum of $1.00 pays for supervision over only $46.30. He said:

> "Much effort has been expended during this investigation in an endeavor to determine whether or not the system has been saving the State more than it has cost to operate it. It is prob-

ably impossible, from any obtainable source of information, to ascertain the net saving, if any, secured by the supervision and revision of the estimates."

The present Deputy Fiscal Supervisor admits that it is practically impossible to tell whether the estimate system saves money, and agrees with Mr. Wright that it may cost more in energy and mean more in neglect of the more important functions than could be saved in reducing the cost of supplies. The Bureau of Municipal Research, after a careful analysis for the board of managers at Letchworth Village, concluded that "The important savings are not the result of the supervision of the estimates, but they are made by the (local) management in controlling possible liabilities when they are incurred."

A Comparison with System in Massachusetts

I have made an inquiry into the system of supervising the expenditures of state institutions in Massachusetts, in which are located several of the foremost institutions in this country. In this commonwealth, the legislature makes a lump sum appropriation for "maintenance" and another lump sum appropriation for "special improvements." The state auditor, who corresponds to the New York comptroller, asks the State Board of Charity for advice as to whether there should be a different basis of expenditure than that indicated under twelve general heads that he sets forth. The auditor allots the appropriation into as many parts as there are such general heads and calls upon the institution authorities to allot "in detail" on the basis of their detailed estimates earlier submitted for the purpose of obtaining the appropriation. Once made, the institutions are then forbidden by the auditor to change these allotments, which are called the "appropriation in detail" and the institutions adhere very closely to this throughout the year. Then there is a series of monthly and semi-annual statements of classified expenses by the institutions to the auditor, who pursues the matter to final audit. There is no estimate system as we know it. Indeed, it should be said that the essential feature of the Massachusetts system is detailed itemization after expenditure, instead of analysis and scrutiny before expenditure.

Bearing upon the question of economy in administration, Mr. Robert W. Kelso, Secretary of the State Board of Charity of Massachusetts, prepared for me a tabulation which shows that the per capita cost in Massachusetts institutions is, as a rule, less than in New York, com-

paring Massachusetts institutions of a given kind with New York institutions of the same kind. For example, two New York institutions for juvenile delinquents, in 1913-1914, had a weekly per capita cost of $7.41 and $7.29, respectively, as against $5.24, $6.83 and $5.29, respectively, for the three similar institutions in Massachusetts. Moreover, the population in the Massachusetts institutions was, with one exception, less than in the New York institutions, a factor usually counted upon to increase relatively per capita cost. The same is true of the schools for feeble-minded children. In the other institutions, as far as comparisons could fairly be made, the differences varied and were slight. On a comparison of the average number of inmates cared for by one employee, which is considered a significant test, again the advantage, as a rule, was with the Massachusetts supervision.

I am not prepared to recommend at this time a substitution of the Massachusetts system for the New York estimate system, although there is a strong temptation to adopt any good system that will free the managers and superintendents of institutions and provide for economic administration. The Governor's recommendation as to the abolition of the office of the Fiscal Supervisor was accompanied by the suggestion that action thereon be deferred pending the transmission of this report.

Effect of 1916 Budget Proposals upon Estimate System.

Gov. Whitman's tentative budget proposals and his annual message, transmitted to the Legislature on January 5, 1916, bear significantly upon the retention of the estimate system. Under the Appropriating Act, as there proposed, the evils of payment before audit would have been ended. As a means to that end, there would have been no further advances by the state treasurer to local treasurers upon the warrant of the comptroller to cover the amount of the estimate approved by the Fiscal Supervisor for three months' purchases. The only payments, except those out of a small emergency or petty cash fund, would have been by the state treasurer after the delivery of the goods and the comptroller's audit. While the proposed act did not specifically refer to the estimate system, and, if it had become law, the system would have continued, the adoption of the recommendation in the message for the abolition of the office of the Fiscal Supervisor would have ended the official life of the only person charged specifically with the duty of estimate revision.

Moreover, in the view of Mr. Charles S. Hervey, who aided in the preparation of the budget proposals, enactment of these proposals would have rendered the estimate system unnecessary. He based this view upon the segregated form of the appropriation, which would operate as an "annual estimate," and which fixed the limits within which the money could be used by the institutions, and thought the institution heads, who aided in the preparation of the budget, could be trusted without central supervision to expend wisely and within the limits of the act. He cited the administration of the City of New York as an example of this method of budgetary control, but conceded that in New York City there is a central departmental control.

Effect of Appropriation Act of 1916.

The legislature, however, departed materially from the provisions of these proposals (Laws 1916, C. 646). It left undisturbed the present provisions of law as to the advances of funds upon the estimates approved by the Fiscal Supervisor. It limited in detail the appropriations for "personal service", and in the same form as in the budget proposals. This would eliminate in the quarterly estimates the need of the item "salaries and wages". But in respect of "maintenance and operation", it made its appropriations under substantially larger and more general titles or schedules. The comptroller was, however, directed to define the classifications of expense, "defining the purpose for which moneys appropriated under each title may be expended". It would appear from this that, if there were no estimate system, the comptroller could periodically bring to book any institution spending money for any other purpose than he had defined. The definitions are binding upon the expenditures and the audit thereof.

Purchases under Joint Contracts.

The only other power of the Fiscal Supervisor that requires comment is that relating to purchases under joint contracts, conferred upon him in 1903 (Laws 1903, C. 473; Sec. 48 S. C. L.). He does not buy. His whole relation to the subject seems somewhat attenuated. He calls an annual meeting of the institution superintendents, at which a purchasing committee of six is named. The Fiscal Supervisor names its chairman. This committee decides upon those articles which it is practicable to purchase by joint contract, upon the specifications of the articles and the terms of the contracts. The committee subsequently meets and considers proposals or bids and may make awards and execute contracts, subject to the approval of the Fiscal Supervisor. Deliveries are at the several institutions and not at a distributing depot. The second Deputy Fiscal

Supervisor is secretary of the committee, without compensation. Otherwise, there seems to be no one in the Fiscal Supervisor's office giving any especial attention to this system. It is incredible that these busy superintendents and stewards, without any paid staff, can watch the markets, draw adequate specifications and contracts, test competing products, and see that the deliveries meet the specifications.

There is a common conception, based upon some experiences in the commercial world, that central purchasing saves much. The evidence before me indicates that advantageous central purchasing for the state institutions works well within a range more limited than is generally appreciated. One reason that militates against the complete success of the system is that the institutions are situated in all parts of the state, and the goods bought under the joint contract are shipped directly to the institutions irrespective of heavy carrying charges, and further, that the goods cannot be properly tested upon delivery to see if the specifications have been met. An exception to the general rule that advantageous trade conditions are established through central purchasing is where the transportation cost is more than the saving through the better prices obtained. The Secretary of the State Board of Charities testified before a legislative committee in 1911 that an attempt to buy for all the institutions would limit the number of bidders, and that this might result in a combination to maintain prices.

Gov. Hughes, in his first message to the legislature, favored central purchasing for all the three great groups of state institutions, but in later messages materially qualified his recommendation and favored central purchasing only to the extent that it was found advisable. The debate at a legislative committee hearing in 1915 on the bills for a "board of control" for state institutions revealed clearly the unwisdom of taking from the Hospital Commision the power to purchase supplies and equipment for the hospitals for the insane and placing it in the hands of a central board unfamiliar with the care of the insane and with a natural inclination to establish uniform grades of supplies unsuited to the widely varying needs of the hospitals and the miscellaneous charitable institutions and the prisons.

Mr. Wright, in his report, to which reference has been made, after his study of the system in New York and Iowa, concluded that "an institution with an inmate population of 400 or over can generally secure as low prices as can a central body with power to contract for large

quantities". The Secretary of the Hospital Commission states that experience has shown that many articles cannot be bought advantageously on joint contract, and that independent purchasing of such articles has superseded joint purchasing. He states: "The advantages from joint purchasing are greatly overestimated by some."

In 1914, as a result of voluntary coöperation, a joint committee for all the institutions, charitable, the hospitals and the prisons, bought under joint contract all the coal required. The purchase was on a British thermal unit basis, the amount paid being graduated on the number of heat units in the delivered product. In the following year, the institutions returned to independent buying. The coal in 1914 cost $2.50 per ton; in 1915 it cost $1.85 per ton; and in 1914 the grade of coal, which was the only grade that could be bought advantageously under joint contract, was unsuited to the needs of some of the institutions. The Deputy Fiscal Supervisor testified that he cannot see how it is possible to ascertain that there is any saving of money from the joint contract system, and that in the case of most supplies it is cheaper to buy in the open market.

It is evident that if the state is to enjoy to the full such advantage as does and should come from central purchasing, there must be found another administrative method than that now obtaining in the department of the Fiscal Supervisor.

Present Duplication of Labor by Comptroller and Fiscal Supervisor.

I doubt if it is generally realized that most of the other work performed by the clerks in the office of the Fiscal Supervisor has of late been assumed or is, in substance, done over again by clerks in the office of the comptroller. In 1913 the legislature provided that before any contract made by or for any state institution shall be executed or become effective when such contract exceeds $1,000 in amount, it shall first have been approved by the comptroller. It also provided that when any liability of any nature shall have been incurred, notice shall immediately be given the comptroller in writing; also, that when any supplies or materials are furnished, a duplicate of the notice shall be delivered to the comptroller (Laws 1913, C. 342). In the comptroller's annual report in 1914, he said: "By the enactment of Chapter 342, Laws of 1913, the machinery was created which makes possible a real control of the State's business. This law is based upon the theory that the only satisfactory check upon the expenditure of the State's funds can be made by the supervision and audit of an office which is not concerned in creating the appropriation or in expending it." When

the bureau was first established the comptroller thought it would be necessary to employ a large force of traveling auditors to go to all the state institutions and departments outside of Albany, and in 1914 an appropriation of $79,500 was granted for this work. The comptroller, however, has been able to do the work by means of his regular staff, and the appropriation for 1916 was reduced to $43,300. As a result of the practice evolved under this law, the comptroller and Fiscal Supervisor both check all orders or requisitions against the estimates, and the vouchers are checked by the Fiscal Supervisor against the order or estimate and the treasurer's report and sent to the comptroller for further examination as a part of his final audit. There are three audits of each account. The legislature has also provided that no payment for new construction or alteration in a state institution building shall be made unless the State Architect, the Fiscal Supervisor and the Comptroller all approve (Laws of 1914, C. 111).

Salary Classification Commission.

Creation of the Commission.

The Salary Classification Commission was established in 1899. At that time the comptroller was revising the monthly estimates of the institutions and perceived the inequality of salaries paid for the same or similar work throughout the charitable institutions. All salaries were then fixed by the local boards of managers. By tacking on a clause to Section 17 of the State Finance Law, which bore a title wholly inappropriate for the purpose, namely, "Itemized and Monthly Accounts of Public Officers," the legislature established that which has come to be known as the Salary Classification Commission. The provision was simply that the comptroller and the president of the State Board of Charities, subject to the approval of the governor, should classify into grades the officers and employees of the state charitable institutions, and should fix salaries and wages therein. In 1903 the requirement that the governor should approve the classification into grades was dispensed with, and the power to fix salaries was converted into the duty of recommending to the governor, once a year and in September, such changes in salaries and wages as might seem proper, the changes not to be made unless the governor should approve (Laws 1903, C. 239). After first recommending that the commission be abolished, and then importuning for years to be made a member, the Fiscal Super-

visor was added to the commission in 1914. His view was that there would have been no need of the commission had there been a supervising fiscal officer in 1899.

How the Commission has Worked.

In practice, from 1899 to 1914, the president of the State Board of Charities was recognized as the representative of the institutions and was the only member of the commission having a real knowledge of their needs. His decision on the requests for new positions or increases in salaries was generally controlling. After a hearing by the commission, the president and secretary would go over the minutes and the president would decide upon the requests made at the hearing, and the secretary would go about informally getting the approval of the other members. The Fiscal Supervisor has been a member for so short a period as to make it impossible to say what, if any, effect his entrance upon the commission will make in its decisions. The secretary of the commission said: "The work of the President of the State Board is the basis of all action by the Commission."

Gov. Hughes furnished the only instance of withholding executive consent to the findings of the commission. This was by reason of unusual expenditures by the state at that time. There have been long periods when it was impossible to obtain executive attention to the recommendations of the commission, notably from April 29, 1913, to December, 1914, and I am persuaded that executive consideration, when obtainable, for such a matter as the recommendation of an increase of $2.50 per month in the wages of a cook could not, as a rule, be otherwise than perfunctory.

The main criticism of the commission by institutional heads is based upon alleged delay in action upon requests. Much of this criticism has been warranted. Sometimes the delay has been due to absence of one of the commission. In one case an institution asked an official interpretation of one of the commission's communications, and after nine months had no answer and went about the matter in another way. The secretary wrote that the question had been presented to the governor; but the law does not require that such matters be presented to the governor.

In 1912 there was in course of construction a number of buildings at the institution called Letchworth Village, as a part of the development of the great plant at that institution. The board of managers, Mr. Frank A. Vanderlip, president, observing that the Fiscal Super-

visor watched every cent of expenditure for supplies, but that there was no one whose duty it was to represent the state and watch the contractors who were engaged upon this great building project, wrote the Salary Classification Commission in April, 1912, asking for the authorization of a position to be entitled "Superintendent of Construction," the incumbent to reside at the institution so that there might be continuous inspection. It was not until November, 1914, that the place was authorized, and it had required a communication from Mr. Vanderlip to Gov. Glynn and an opinion of the attorney-general that the place could be authorized under another title. There appears to be no reason why this opinion could not have been obtained by the Salary Classification Commission two years earlier.

One reason for the delay in the work of the commission is the infrequency of meetings of the commission, although it does meet as often as is required by the statute. One result is that desirable employees, seeking increases in salary, are lost to the institutions because they cannot remain so long in uncertainty pending the action of the commission. Another result is that employees are placed in authorized positions which bear titles wholly foreign to the work actually done. There has been no revision of or change in the schedules of the commission as to titles or salaries since July 31, 1915.

The commission has left the institutions in uncertainty as to the legal status of its schedules. In a certain case the commission had authorized an increase upon the request of an institution. The Fiscal Supervisor disapproved the increase when he revised the quarterly estimate. The Fiscal Supervisor took the position that the commission could only recommend. The commission was notified but failed to hold its ground or to join issue with the Fiscal Supervisor.

There is no doubt that the chairman of the commission, the president of the State Board of Charities, has done his work carefully, and that his intention has been to compensate the state's employees on a standard that bore some resemblance to that adopted by the other state institutional groups, and to that prevailing in municipal or private service. But he has not had the staff that might have enabled him to deal with salary schedules upon a comprehensive basis. The secretary of the commission is the Superintendent of State and Alien Poor, is the only employee, and, as such secretary, he serves for what is practically a nominal compensation.

Disproportionate Salaries and Needless Positions in Charitable Institutions.

The salaries paid in the several institutions belonging to the charitable group are disproportionate. Employees will leave one institution and go to another, where the pay is greater for similar work. Salaries of superintendents have been fixed upon a census basis, which is obviously illogical. The commission having once created a position by giving it a title in its schedule always lets it stand, never cuts it out. The secretary testified that the commission has power to reduce a salary when it is excessive, but it never does it; that there are changed conditions in some of the institutions calling for the elimination of positions and the reduction of salaries, and there should be a careful revision of the schedules, but it has not been done.

Disproportionate Salaries in Hospitals, Prisons and Charitable Institutions.

For years it has been apparent to the chairman of the commission and to others that there is a wide disparity between the salaries and wages paid in the three great institutional groups, the charitable, the prisons and the hospitals for the insane. Gov. Hughes said in his message to the legislature in 1908:

> "While the state is the one employer, there are diversities in existing classifications and in the means of fixing salaries which are wholly unnecessary and subject the state to serious disadvantage. In some cases, one portion of the state service in effect competes with others and the want of harmonious action breeds widespread dissatisfaction."

He wrote to the same effect in his message in 1909.

These disparities may be visualized upon inspection of comparative schedules of salaries paid in the charitable, hospital and prison groups. In general, it may be said that the highest compensation is made in the hospitals, the next in the prisons, and the lowest in the charitable institutions. There is no doubt that higher salaries should be paid in the hospital service, and perhaps in the prison service, due to special conditions arising in part out of the difficulties in dealing with the inmates and surroundings that are less congenial than in the other institutions, and to the consequent difficulty of attracting and retaining employees in the hospitals and prisons. But it is still true that a just proportion has not been reached and consequently that there is need of readjustment. These three groups of institutional service constitute about 40 per cent. of the state's civil service personnel.

Effect of Appropriating Act of 1916 Upon this Disproportion.

The passage of the Appropriating Act of 1916 has not affected this question of disproportion, nor was it the expectation of the legislature or the executive that it would. The Governor, in his message of January 5, 1916, recognized that readjustment of salary and wage standards fell within the field of the Senate Civil Service Committee, which has been "making a scientific study of the personal service of the state", and recommended that the proposals of the committee, then in the course of preparation, become law when completed and be applied to the rates suggested in the Governor's budget proposals. The bill proposed by the committee was not adopted by the legislature, passing the senate but failing in the assembly.

Effect of the Appropriating Act on Work of the Commission.

The passage of the Appropriating Act of 1916 did, however, impose sweeping limitations upon the field of labor of the Salary Classification Commission. Ignoring the schedules of the Salary Classification Commission, the legislature, with the approval of the governor, has adopted its own titles and its own maximum rates of compensation, and even fixed the number of positions under each title in the institutional service. It is obvious that by no act of the Salary Classification Commission can a salary be increased beyond the legislative rate, and such is the ruling of the comptroller. The attorney-general has written an opinion in which he holds that the Salary Classification Commission may fix salaries at a lesser amount than that carried for the office in the appropriation bill, but, with all respect, I may say that I cannot be sure that the attorney-general is correct in this ruling. In the first place, the Salary Classification Commission is not empowered to "fix salaries", but only to "recommend changes" to the governor. Again, in the Appropriating Act it is provided that the appointing officer may fix the salary at a lesser sum. The Salary Classification Commission is not the appointing officer. Finally, the Governor, in his message, showed what was intended by his budget proposal, which was substantially adopted by the legislature as to form of "personal service" appropriations. The Governor said:

> "Through this form of enactment the legislature may express its administrative policy in the terms of exact appropriations. * * * All the salaries and wages to be paid by the state are shown against the title of the various positions in the activities to which they are assigned."

In enacting this schedule of titles and salaries, the legislature in effect constituted itself a salary classification commission, and while it is easy

to see why it gave the appointing powers the right to reduce salaries as a means of discipline, it will not, I think, be readily held that it intended to give another salary classification commission the power to make another schedule at lower rates. It is apparent not only that the Salary Classification Commission cannot increase salaries, as the comptroller has ruled, but that it cannot, at least pending the passage by the legislature of an appropriating act of another type, classify positions into new grades, or create new positions "from time to time". Moreover, if the September recommendations of the Salary Classification Commission for changes in salaries were ever utilized by a governor or a legislature in preparation of the appropriation bills, which does not appear and which I do not believe, the need for this is at an end. The legislature at its last session created a new budget-making agency, consisting of the Senate Finance Committee and the Assembly Committee on Ways and Means, each with a staff, to continue in office between legislative sessions, and to gather material for the budget from institutional and departmental heads, so that the governor may be prepared to recommend appropriations in the first week in January, and the legislative committees not later than March 15th (Laws 1916, C. 130).

To sum it up, there is nothing left to justify the continued existence of the commission.

Senate Civil Service Committee and Salary Standards.

The Senate Committee on Civil Service, Hon. Clinton T. Horton, chairman, was authorized in 1915 to investigate the civil service of the state, with particular reference to salaries, grades and duties of officers and employees. The inquiry extended into every branch of the civil service of the state. The work was begun on April 26, 1915, and the first report was issued March 27, 1916. This report contained a proposed act to amend the civil service law in relation to the classification and grading of state employees, a code of specifications for personal service accompanying the proposed act. This code was to become a part of the law itself. In this code were provided basic standards for titles, duties, qualifications, grades and rates of compensation covering the entire institutional service of the state. The Civil Service Commission was in substance made the administrator of the law and the medium of suggestions for future change in rates, with broad powers over titles, grades and qualifications. All the schedules of the Salary Classification Commission were expressly superseded. The Executive recommended the passage of the bill and characterized the work of the committee as a scientific study of the per-

sonal service with a view to weeding out unnecessary positions and placing all state employees on a basis of compensation which would give the state a fair return for salaries paid. The bill passed the senate but failed of report in the assembly. I have carefully examined the report of Senator Horton's committee and am convinced not only that it is based upon sound principles of investigation, but that the committee has comprehensively considered the long standing problems of inequality and disparity in all institutional service compensation and has adopted reasonable standards that should be tested in actual experience.

Building Improvement Commission.

Creation of the Commission.

The governor is chairman of a statutory committee that has come to be called the Building Improvement Commission. The other members are the president of the State Board of Charities and the Fiscal Supervisor. The commission approves or disapproves the state architect's plans and specifications for all state charitable institution buildings and all alterations or repairs therein, and may approve the letting of contracts for such work, and no work can be done under such plans unless and until there is such approval (S. C. L. § 49).

This commission was created by the legislature in 1902, simultaneously with the department of the Fiscal Supervisor, at the suggestion of Gov. Odell and over the opposition of the State Board of Charities. The same work had been done, and, as far as I am informed, well done, by the State Board of Charities through a standing committee, beginning by common consent in the administration of Gov. Cleveland in 1883, and under express provision of law in 1899 (Laws 1899, C. 504). The State Board has performed a similar service for the county almshouses except in New York City (Poor Law, § 118), and under its power to establish rules for the reception and retention of inmates in private institutions has done likewise for such institutions.

Exception of New York City Almshouse Building Plans from State Board Control.

I have considered the testimony as to the circumstances that resulted in the passage of the law excepting New York City from the control of the State Board of Charities over building plans for almshouses, and it is my view that there was no adequate reason for the making of this exception and there is none for the retention of it.

How the Commission has Worked.

Although the commission was established in 1902, no minutes of any meeting of the commission could be found prior to February, 1905, when, under Governor Higgins, it met, organized, named a secretary

and acquired a rubber stamp. The staff of the commission consists of a secretary, who has usually received compensation to the extent of $500 a year, never more. If there were any buildings erected, or any alterations to buildings, at state charitable institutions from 1902 to 1905, and there must have been, the procedure must have been *extra* legal. Meetings since 1905 have been irregular and frequently ill attended. The greatest number of meetings was sixteen, Gov. Hughes' first year in office; then they grew less and less until within the two years 1911 and 1912, there was one meeting. During all this time, all new construction or repair work was held up or was going on irrespective of the law, or plans were being approved by individual action of members of the commission, although meetings of the commission for the purpose of joint consideration were required by the spirit and the letter of the law. In the first eleven months of 1915, there were nine meetings of the commission.

The President of the State Board of Charities was regarded as the representative of the institutions on this commission, as he was on the Salary Classification Commission. He attributed the decline in the number of meetings during Gov. Hughes' administration from sixteen in the first year to seven in the second, seven in the third and three in the fourth, to the conviction that was evidently growing that the work of the commission was in the main too trivial to justify any more attention than was absolutely necessary.

After waiting three years to organize, the commission, at its first session, in February, 1905, passed resolutions calling for greater expedition in construction work, and then, at the same session, failed to approve an important contract, already a month old, because the commission had no rubber stamp to use as a convenient means of endorsing approval, and it was March 16 before the contract was properly endorsed. One meeting was held at which the only member present was the President of the State Board, and the minutes recite that the Fiscal Supervisor was "on telephone call", and yet motions were made, seconded and carried unanimously. In the minutes of another meeting it appears: "Present—President of the State Board of Charities, the Fiscal Supervisor later supporting any action taken at the meeting." It does not appear that the Fiscal Supervisor ever confirmed this particular grant of power, or that the action taken at the meeting was ever ratified.

A reading of the minutes discloses that the governor was called upon to give his time to the careful consideration of such matters as a shack over a root cellar, plastering in a toilet room, the resetting of register frames for eight dollars, one extra drop light, the substitution of black slate for green slate, a piggery and a hen house—a list which might be continued at great length. When these plans reached this commission, they bore endorsements showing that they had been passed upon by a large number of officers and clerks, all presumably competent. The minutes show many instances of unexplained and protracted delays between the dates of contracts and approval by the commission, and repeated cases of individual and separate action on plans from time to time, and then approval *en bloc* at some belated meeting of the commission.

The President of the State Board characterized it as a "useless commission", and the Fiscal Supervisor said that neither the governor nor he should be members of it.

Commission on Sites, Grounds and Buildings.

Creation of the Commission.

In 1899, the State Board of Charities was given the power to approve or reject the sites for new almshouses in the several counties of the state (Laws 1899, C. 133). Special commissions, usually named by the governor, selected sites for new state charitable institutions, exhibiting varying degrees of wisdom. There was no repository of the information and data acquired by the several commissions, for the use of succeeding commissions. There was no guaranty of course that commissioners would be named who possessed particular information relating to existing institutions, their needs and the plans for their development by colonization and otherwise, and who would be free from local or self-interest in a given site.

In 1900, the Prison Association of New York led a movement for the establishment of a greatly needed new institution to be called "The State Reformatory for Misdemeanants." This movement had the earnest support of the Association of Magistrates and other organizations. The institution received legislative authorization in 1912. It appears from the testimony that in 1913, a Deputy Fiscal Supervisor, possessing the desire to be considered in the location of a site for this institution, procured the introduction of a bill to create a new "Commission on Sites, Grounds and Buildings", of which the Fiscal Supervisor was to be the

chairman. Both the President and Vice-President of the State Board of Charities testified that the board took no action on the subject. The President said the board did not know of the bill until it had become law and that he would have opposed it had he known of it. Both said that neither the board nor any member or officer of it had favored the bill. The President said that in practice it has turned out that the work of the commission has interfered with that of the State Board. It appeared, however, that at a committee hearing on the bill in the office of the Fiscal Supervisor, the Secretary of the State Board had spoken in favor of the bill, had suggested an amendment, and had said that he appeared in his personal capacity.

The bill became law in 1913, and provided in substance that sites for new state charitable institutions, and for new buildings at existing institutions of that class should be fixed by the commission, with appeal only to the governor, and that the commission might buy or condemn property for such sites. The commission consisted of the Fiscal Supervisor, a member of the State Board of Charities, the State Architect, a member of the Conservation Commission, the Commissioner of Agriculture, or their representatives, the chairman of the Senate Committee on Finance and the chairman of the Assembly Committee on Ways and Means (Laws 1913, C. 625). The legislature appropriated $75,000 for acquiring property, and $5,000 for commission expenses (Laws 1913, C. 791).

How the Commission has Worked.

During the first year of the life of the commission its report shows that the only real results were the approval of a request of one institution to buy additional land, and the location of several buildings at existing institutions, including a barn and a dairy, and a change in the location of some other buildings. In the second and third years, nothing was accomplished. Genuine but unavailing efforts were made to select a site for the new institution for misdemeanants, and the appropriation of $50,000 for a site for that greatly needed institution has lapsed.

Periods of six months and a year went by without a meeting of the commission. There has been no meeting since January 26, 1915. On one occasion, the commission considered a matter of some difficulty at considerable length, and then referred much of it to the local board of managers. One institution desired the commission to acquire a certain valuable tract of land. The commission laid the request "on the table." Later the institution felt compelled to ignore the commission. It went ahead

and bought the tract, and the State Board of Charities has commended the institution for the purchase. As an example of definiteness of expression, a declaration in the first report deserves attention: "After due deliberation, it was agreed to locate north or south of the line between Albany and Syracuse."

Not only has there been no meeting of the commission since January, 1915, but the commission failed in 1916 to request such appropriation as might be necessary to enable it to discharge its duties. All the original appropriation of $80,000 lapsed, except $572.33.

Of course the local boards of managers have gone on selecting sites for new buildings. The work could not stop; the commission has not met; the commission has been ignored. No notice has been sent by the commission to the institutions that they must come to it for authorizations. The chairman explains that the institutions "do not care to avail themselves of our work." One reason given for failure to hold a meeting is that the administration has indicated that the state of the treasury is not such as to encourage expenditure for sites for new institutions. Assuming that that is the case, this would not excuse the commission for its failure to act on sites for new buildings at existing institutions, or upon requests of existing institutions to extend their plants.

The truth is that the chairman has found it practically impossible to induce attendance at meetings. The commission is unwieldy. Its members are not interested, and it is not surprising that they are not. Gen. Rosendale, the representative of the State Board of Charities, or his representative, the Secretary of the State Board, did attend the meetings of the commission. At one meeting, when a determined effort was made to secure attendance, the State Board was the only body represented in person and not by a subordinate. On that occasion, each of two of the subordinates purported to act for two of the members of the commission, and each of them purported to represent a member of the commission who could not under the law send a representative. When asked to account for the breakdown of the commission, the chairman invited attention to the make-up of the commission and to his experience in attempting to hold meetings, saying: "It is not possible to get them together to transact business." When it dawned on Senator Frawley, chairman of the Senate Finance Committee and thus a member of the commission, that the commission was called on under the law to tell a board of managers of an established institution where to locate a new

building, he said: "It is silly." The chairman of the commission testified in substance that the commission is a failure, and the Deputy Fiscal Supervisor said: "It has been dead for two years," and that the commission should be abolished. The board of managers of Letchworth Village state in their last annual report: "The board agrees with the State Architect and other members of this commission in their view that it serves no good purpose and results in a duplication of work and effort not commensurate with any possibility of accomplishment." In 1915, the senate passed a bill to end the life of the commission, but it was not reported from committee in the assembly.

If the commission was a serviceable factor in state administration, all eyes would turn to it as the body to select a new site for the Yorktown institution, the New York State Training School for Boys, which must be built elsewhere than on the Croton watershed. But I venture to say that for this purpose no one has given the commission a thought.

Board of Examiners of Feeble-Minded, Criminals and Other Defectives.

Creation of the Board.

This board is not mentioned specifically in the commission entrusted to me, but I regard it as so intimately related to the "affairs of the State Board of Charities," and to the welfare of perhaps the most unfortunate class of the state's wards, that I feel it my duty to report on it.

In 1912, a bill was introduced in the legislature providing, through an addition to the Public Health Law, for the appointment by the governor of a "Board of Examiners of Feeble-Minded, Criminals and Other Defectives." (This title is the only instance known to me in the law where criminals, as a class, are called defectives.) The bill provided that the board should consist of one surgeon, one neurologist and one practitioner of medicine, each to have been engaged in regular practice for ten years. Each was to receive $10 per diem and expenses. The board was to go among the hospitals for the insane, the prisons and the state charitable institutions, and consider the mental and physical condition, the records and family history of the "feeble-minded, epileptic, criminal and other defective" inmates found in such institutions. If the majority of the board thought procreation by any such person would produce children with an inherent tendency to crime, insanity, feeble-mindedness, idiocy, or imbecility, and if there was no probability that the condition of such person would improve to such an extent as to render procreation

by any such person advisable, or if the physical or mental condition of any such person would be substantially improved thereby, then one of the members of the board should perform on such person an operation for the prevention of procreation. The board must procure from a judge the appointment of counsel for such person before he should be examined.

Those accustomed to watch such legislation had no notion that the bill would pass. There were no hearings and no public discussion. The bill did pass and became law (Laws 1912, C. 445). Gov. Hughes had not signed a similar bill, but Gov. Dix asked the advice of the President of the State Board of Charities, who, speaking for the State Board, advised the Governor to sign the bill, believing it was a "step in the right direction", and the Governor signed the bill. The board was appointed and appropriations for the work of the board from time to time have amounted to $16,700.

How the Board has Worked.

The board has not performed a single operation. It has, however, examined 200 inmates, about one-half of whom are females, and has listed all of them as proper subjects for the operation. Operation upon these 200 cases awaits the determination of an action or proceeding now pending in the New York Supreme Court for Albany County. This action is in its first stages and has not yet been submitted to the court for its decision. It is on its way to the Supreme Court of the United States. The case has been brought to test the constitutionality of the law. In New Jersey, a similar law has been declared unconstitutional. In Washington, it has been declared constitutional. This is what there is to show for an expenditure of $16,700.

The work is proceeding daily and persistently at the rate of $10 per diem, and expenses for each of the three members of the board, or was in January last, when I examined two members of the board. One member said he gave nearly every day to the work and yet maintained his general practice. He thought "one hour would do it for a day". The requirement of the law is that a day is a day actually engaged in the performance of the duties of the board. It might take a week, he said, to decide on one case. No one has ever ascertained how long it will take the board to examine the 6,000 feeble-minded persons now in custody in this state.

The members of the board travel separately usually; but the intent of the law is that the *board* shall consider each case. It does not appear that the board ever procured the judicial appointment of counsel as a preliminary to examination, as the law seems to require in each case.

The board has no staff. A member of the board said there is no prepared schedule for visitation. Each member seems to visit at random. Sometimes he asks the institution superintendent if another member of the board has already examined, and might not know the answer until he had traveled to the institution.

The chairman of the board testified that 200 cases had been examined and *all* had been registered for the operation of sterilization. That all who are examined should be selected is amazing in view of the limitations of the statute as to those upon whom the board is permitted to operate.

Expert Opinion as to Sterilization.

There have been operations under a similar law in some of the other states, notably Indiana, where some record appears to have been made of the effect of the operation on the mental and physical condition of the patient, but the chairman of the board was not prepared to say that any safe conclusion could be drawn from these records. The New York board has not examined any case in another state where the operation has been performed. Dr. Fernald, the distinguished head of the Waverly Institution for the Feeble-Minded, in Massachusetts, was instrumental in recently defeating proposed legislation to authorize this operation in that state.

Dr. Stephen Smith, the veteran member of the State Board of Charities, has pointed out in a recent publication: "As idiocy and feeble-mindedness have not been standardized, by what rule is the public officer appointed to sterilize the sexes to determine with absolute certainty that the subjects of this sterilization would beget idiots. * * * The procedure is naturally shocking to moral sense." He testified that he had had opportunity to inquire particularly about the Indiana operations and the report as to the results, and said that "it is considered unreliable. Every man I know in the West considers it unreliable."

Dr. Smith further testified that, in his opinion, it is inadvisable for many reasons for this commission to go on examining cases at a per diem expense to the state, "piling up hundreds of cases pending decision in a test case in which there is no decision." Gen. Rosendale, the vice-president of the State Board of Charities, testified that he thought that the law did not have the support of the State Board or of its committee on the feeble-minded, and that he was amazed at the conditions revealed, and that the board ought not to go on.

Dr. Cobb, of the Syracuse State Institution for the Feeble-Minded, and Dr. Bernstein, of the Rome Custodial Asylum, testified along similar

lines—that it is legislation in advance of enlightened public opinion, if not contrary to it; that the result of turning loose upon the community the patients who had been subjected to the operation would probably spread disease and result in a larger number of defectives than could possibly be safely restored to society as a result of the operation.

A bill was introduced in 1913, and again in 1915, to repeal this law. It was apparently not pressed for passage.

Irrespective of the moral and sociological phases of the question, it is clear to me that it is only a waste of public funds to continue this board under existing conditions, and I recommend the repeal of the law creating it. If hereafter it is found desirable to give legislative sanction to this operation, it can safely be remitted to the several institution authorities, each of which possesses or may readily acquire the necessary expert staff.

State Board and Private Institutions for Children in New York City.

A Statement of the Question To Be Answered.

The real question submitted to me by the Governor for inquiry with respect to the private institutions for children in New York City is outlined in the Governor's letter of November 18, 1915, in transmitting my commission. The substance of this letter is that the representatives of the City claim that the 1914 and 1915 inspection reports of the State Board of Charities as to certain institutions are widely at variance with the findings of the City's inspectors, and "that certain of these institutions which have received the certificate of approval of the State Board of Charities have been found to be actually in an unfit condition to provide proper care for the children heretofore sent to them", and I am asked to make careful inquiries as to these matters. In substance, the case amounts to a charge by the City of negligence on the part of the State Board in issuing certificates as to certain private institutions for children during 1914 and 1915 and prior thereto.

It will be perceived, therefore, that I am not asked to investigate the institutions for the purpose of ascertaining their present condition. This could have been done by a fresh inspection of my own, with such expert assistance as I could have commanded. When it was over, I trust I should have known the real conditions, in most of the institutions at least, but I would have had little knowledge as to the relative responsibility for these conditions, good or bad, as between the State Board of Charities, on the one hand, and the Department of Public Charities of the City

of New York on the other. If I had found the conditions were good, the question would have arisen, is it due to the State Board or due to the City, or to either, or to both, and in what proportion. In the last analysis, what the Governor desires to know, as I understand it, is, how has the State Board of Charities discharged its duty, under the constitution and the laws, toward the child-caring institutions in New York City? And, more particularly, was the City justified in making its charges against the State Board, based on the conditions in these institutions in 1914 and 1915?

Obligations Upon the State Board.

It seems clear to me that there can be no intelligent appreciation of how the State Board of Charities has discharged its duties under the constitution and the laws toward the private child-caring institutions in New York City without a preliminary examination of what, in view of the law and of the procedure thereunder, might reasonably have been expected of the State Board. While it is true that the City administration and its Department of Public Charities are not on trial in this inquiry, nevertheless it is apparent that a comprehensive consideration must include as well the ascertainment of what obligations, if any, are imposed by law upon the City, and how, in general, they have been discharged.

The Constitutional Convention and the Constitution of 1894.

Earlier in this report I have set forth in detail the provisions of the constitution that are applicable. In substance, the State Board of Charities shall visit and inspect these institutions (Art. VIII, sec. 11); existing laws providing for their supervision shall remain in force (Sec. 13); payments by the City for care, support and maintenance are not required but are authorized, and "no such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the State Board of Charities", such rules to be subject to the control of the legislature (Sec. 14).

Recourse to the constitutional convention debates of 1894 discloses that, although charges had then been made against the institutions, a careful investigation had disclosed few defects, but that it was the intention of the convention to arm the State Board with a power it had never before had to correct such abuses as there were and to "check all abuses that might arise in the future"; a power that might prevent these private institutions from enjoying any share in the public funds "should any abuses manifest themselves". It appears also that a great abuse with which the convention was then concerned was that many

children were found in institutions without commitment, placed there by parents who were well able to support them. This called for a policy which Mr. Choate, the president of the convention, described as saving a great commonwealth from having its children pauperized, a policy which does not rest upon any religious or sectarian ground. He said there should be a power in the state that had never been exercised before, to go through these institutions at any time and refuse aid to any child whose parents were able to support it. This power was to be that of the State Board of Charities under its duty to visit and inspect and to make rules. Mr. Choate said: "I have consulted the Secretary of the State Board of Charities whether in his judgment it was practicable, and he says it is if this is properly applied, and no child can get into such institution without *their* consent, and cannot stay there a day longer than *they* say he ought to be kept."

But this was not the only abuse, or possible abuse, to which this power was to be directed. Mr. Lauterbach, chairman of the committee on charities, said in debate: "I believe every one will agree with me that there should be some body, some board, whose duty it will be to see to it that all these persons will receive intelligent care and protection." He further said that the provision as to making rules would give "absolute domination" to the State Board of Charities.

The Court of Appeals in People *v.* Comptroller, 152 N. Y. 399, said, after referring to the fact that the constitutional convention had invested the new board with the power of visitation and inspection: "But more farreaching is the power conferred upon the State Board to make rules and regulations for the reception and retention of inmates." The State Board itself set forth in its annual report for 1896, shortly after the constitution was adopted: "The constitution and laws show that the supervision delegated to the State Board was intended to be of the most varied and searching kind, designed to permeate and scrutinize every avenue and branch of the charitable work of all the institutions." The State Board in its report for 1908 said: "The immediate responsibility for the supervision of the training of the many wards of the State is imposed on the State Board by statute, and consequently these institutions are not visited by the Department of Education." A member of the State Board testified at the hearings that the "Board appreciates that the state has put on our shoulders the care of its wards."

Duty to Ascertain whether Inmates are Proper Public Charges.

It would seem clear from the debates that it was the purpose of the constitutional convention that the State Board itself should ascertain whether the inmates of the institutions are proper public charges. This was stated specifically, as I have pointed out. The State Board itself took this view of the matter. It said in its report for 1900: "Systematic examination of children's records in order to ascertain whether such children are proper public charges is a duty unquestionably imposed upon the State Board by the State Charities Law." And the President of the board confirmed this in his testimony before me. Yet it appears that in 1895, the State Board adopted a rule imposing upon local Poor Law officers (in New York City the Department of Public Charities) the duty of accepting applicants for admission to the institutions as proper public charges, and of re-examining thereafter for the purpose of re-acceptance. Finding this rule was not being observed, the State Board in 1895 and 1896 effected an arrangement with the City of New York by which the latter, through its Board of Estimate and Apportionment, provided for inspectors to enable the Department of Public Charities to perform this duty, and this department in New York City, and the local Poor Law officers throughout the state, have been doing it ever since. In justice to the State Board, it should be said that when this duty was imposed upon it by the constitution, it had no inspectors for this or any other purpose, and it is not strange that it made rules and sought an arrangement by which this duty was to be discharged by the localities. For this course it has support also in an observation by the court *In re* New York Juvenile Asylum, 172 N. Y. 50. It is nevertheless true that the correction of the abuse which the convention relied upon the State Board to attend to was by it immediately relegated to others without the obligation to account to the State Board as to the manner of performance.

State Board Adopts Rules.

Following the adoption of the constitution, the legislature imposed upon the State Board the duty of establishing rules for the reception and retention of inmates in the private charitable institutions, and annually visiting and inspecting the same to see whether its rules and regulations were fully complied with (S. C. L.). The board adopted provisional rules early in 1895. These rules were subsequently altered, particularly in 1910, but the legislature has never changed them, and, as they now are, so they have been in substance for nearly twenty years.

Form of State Board Certificates.

The legislature did not require that the State Board issue any certificate as to compliance with its rules and never has made such requirement. In view, however, of the constitutional inhibition against any payment to institutions not observing the rules of the State Board, it was evident that the board must adopt some practice that would enable the disbursing officer—the comptroller, in New York City—to make these payments. At first, although as I have said the State Board had no inspectors, it adopted the rule that its secretary should approve the bills of the institutions by endorsing thereon, that the rules of the board had been complied with by the institution. Upon the advice of the attorney-general, this plan was abandoned and the rule was amended so as to eliminate these endorsements entirely, the attorney-general going so far as to advise that the locality should ascertain for itself if the State Board's rules were being complied with. It appears, however, that the comptroller of New York City, and other disbursing officers, were importunate for some evidence proceeding from the board of compliance with the board's rules. For a time the board, recognizing that it was without an inspectorial force that would justify it in issuing its own certificate, sought to satisfy them with the issuance of a letter to the effect that the institutions had reported to the board as required, but that by this statement the board did not wish to be understood as intending to certify that its rules were receiving compliance. In October, 1896, the board formally resolved that in "the absence of special inspection" it could not certify more than that the institutions had filed their reports. This did not suffice, however. The board then agreed that the institutions should furnish a certificate of compliance with all the rules of the board, that upon filing this certificate with the board, the board would issue a letter certifying that such certificate had been filed and that such evidence was satisfactory to the board, adding that the letter was intended to facilitate the institutions and the board reserved the right to refuse to issue such letter if it should deem it best to do so. This, however, was not the final arrangement, for, as appears in the annual report of the board for 1896: *"The Comptroller insists in every instance that the certificate of this board that the institution has complied with the rules established by the board* for the reception and retention of inmates, and also that the acceptance of the Commissioner of Charities of the persons for whom maintenance payments are desired, *shall accompany the bill."* The President of the State Board confirmed this in his testimony before

me, saying: "The Comptroller requested a certificate *of our board* that the institution had complied with the rules". The President wrote that "certificates of compliance with the rules of the board are furnished monthly to" (not *by*) "the institutions and must be filed with the local disbursing officer before payment of the claims for maintenance." The certificate of compliance now in use, called the "green certificate", was then issued and has been issued ever since, under the board's Rule 3, which has the effect of a statute; and the comptroller has been accepting it and relying upon it as his authority for payment of the bills ever since; and the Department of Public Charities has ever since regarded it as a certificate by the State Board itself of compliance by the institution with the board's rules. Strictly speaking, it is not that, but it would seem that the State Board itself has called it that. The form of the certificate is as follows:

STATE OF NEW YORK,

STATE BOARD OF CHARITIES.

THE CAPITOL, ALBANY....., 191...

The State Board of Charities hereby certifies that.....
..... located
at .....
has filed with this Board in due form certificates that the said Institution has complied with the Rules of the Board for the Reception and Retention of Inmates, adopted pursuant to the provisions of the Constitution and the State Charities Law, for the.....
.....and that such evidence is satisfactory to this Board.

By order of the State Board of Charities.

.....
Secretary.

The rules of the State Board for many years and until after the hearings before me closed, described it as "the certificate of compliance with the rules and regulations of this board duly signed by its secretary".

In any event, the certificate operates as an estoppel on the State Board, with the result that it cannot be heard to say, in a case where

the certificate has issued, that its rules have not been complied with. The Secretary of the board called it a certificate by the board on information and belief.

While, as I have said, there is no express statutory obligation on the State Board to issue a certificate that its rules have been complied with, there is the plain implication in its own rule, having the force of a statute, that it will issue such certificate, and there is what is equivalent to an express statutory obligation on the State Board to issue its own certificate that the institution has failed to comply with the rules and regulations established by the board under the constitution in case that situation arises (Charter City of New York, Sec. 664).

So the substance of it is that for twenty years the State Board, in issuing the certificates that it has issued, has every month been taking the word of institution officers that they have complied with the rules of the State Board and thus holding out to the world that the institutions are up to the standard required by the law and by the rules. Whenever it has issued the certificate, it has accepted usually without challenge the statements as to compliance which, although made in good faith, were self serving and by persons with whom the board, it seems to me, should have dealt in matters of inspection at arm's length. An inspection of that sort need not be and should not be other than friendly, helpful and constructive.

I have gone into considerable detail as to the form and meaning of the certificate of compliance, because counsel for the State Board regarded it as of great importance and because I think it is due to the State Board to make clear that it was under no express statutory obligation to give it, beyond that arising out of its own Rule 3, and that it is not strictly in terms just what the board in its reports and in its letters, and some of its members in their testimony, have said it was. I observe, however, the statement by counsel for the State Board that, whether the arrangement made by the board and the City as to the certificate was or was not beyond the power of the State Board is not very material; that it imposed on the board a certain duty, namely, to refuse to say that it was satisfied with the evidence of compliance when it had information indicating the contrary. Any other course would amount to falsification.

Construction of the Rules.

Given the power and duty to make the rules, to visit and inspect and supervise in order to see if there was compliance with the rules, there would seem to be no doubt that the same body should construe

these rules—indeed, inspection to see that there is compliance with rules necessarily involves construction of the rules and determination of their application. Judge Scott, in 1895, then corporation counsel, advised the comptroller that as the State Board had established the rules, it was therefore necessarily the most competent judge as to whether its rules had been obeyed. I know of no dissent from this view.

Issuance of Certificate.

The State Board having made the rules and having inspected and having ascertained whether the rules as they should be interpreted had been obeyed, it would follow naturally that the State Board should perfect the system designed by the constitution and the laws to safeguard municipal contributions to private charities by issuing its certificate to the disbursing officers affirmatively declaring, on its own responsibility, that its rules had been complied with. There can be no doubt that the State Board would have done this if it had had such inspectorial force as would have enabled it to do so. In my judgment there is equally no doubt that all uncertainty and hesitation as to this should be removed and that the legislature should affirmatively direct the State Board to issue such certificate when warranted, just as it is now affirmatively directed to issue an adverse certificate when warranted, this said certificate of compliance to be a pre-requisite to payments to the institutions, and that the State Board should be furnished with such number of competent inspectors as will enable it to issue its certificate in good faith and with confidence that it is a certification of the truth about the institutions as it sees it.

State Board's Power to Enforce Its Rules.

After making and interpreting the rules and inspecting to see if there is compliance and certifying as to compliance or non-compliance, the only remaining element for consideration is enforcement. The State Board now takes the position that it is not charged with the duty of management. This is of course true, although it should be said that "the power to make rules for the government of a corporation implies the right to participate in its management in some degree at least". (People *v.* N. Y. S. P. C. C., 161 N. Y. 233, where the court was considering private institutions.) The duty of management rests primarily on the institution boards and officers. The State Board goes further. At one place in the briefs submitted the claim is that it has only inquisitorial powers, not even supervisory powers; in another, that its powers are merely supervisory and not corrective and that it cannot enforce its advice. But the attorney-general has advised that these

private institutions are "subject to the supervision and inspection of the State Board of Charities for the *enforcement* and promulgation of such rules". And again, he has advised that the exercise of the board's functions would "be of little or no value without vesting in the board some means to exercise its influence and to *enforce on the management* of these institutions such method of conducting them as, in the judgment of the board, seems fitting and proper. For this reason evidently the Legislature enacted Section 14, which gives to the board a means of *enforcing its orders*". The attorney-general might have included a reference to Section 15, which is to the effect that the institutions *shall* follow the advice of the board; and also to the statutory provision which enables the board to prevent all commitments to institutions by issuing a certificate that its rules have not been complied with; and also to the rules of the board, which have the effect of statutes, and the practice thereunder, sometimes resorted to, to withhold the certificate of compliance. The board itself, in 1914, reported that the constitution and laws required it *"to see that such rules and regulations are observed"*.

Obligations upon the City.

In view of this obligation upon the State Board to make and interpret rules, to inspect and supervise to see if its rules are obeyed, to enforce its rules by the methods indicated, and the practice as to issuing certificates of compliance, the question now arises as to the obligations of the City itself toward the children in these institutions, and what new alignment, if any, between City and State there should be.

When the agreement was reached in 1896 between the State Board and the City of New York, which the State Board has called "co-operation", and the City took over the duty of examination and acceptance of public charges, the State Board asserted that the City could perform this duty without interfering with the board's inspection or the board's powers and duties evidently reserving to itself what in 1908 is called "the *immediate* responsibility for the supervision of the children and of the many wards of the State", and in 1914, "the *paramount* duty of the State to safeguard the interests of the inmates of the institutions". Accordingly, beginning in 1896, the board organized a staff of inspectors.

City Relies upon State Board's Inspection.

There is no doubt that it has been the common understanding since 1895, of the State Board and the City administration alike, that the *business* of inspection of these institutions, irrespective of its extent, was and should be carried on by the State Board and

not by the City. I am not unmindful of a few inspections, chiefly as to finances, made by the Department of Finance in 1910 and 1911, and I purposely exclude the investigation made by the Department of Public Charities, which was followed by these charges against the State Board. I refer to the usual procedure that obtained. There is also no doubt in my mind that it was generally understood, both by the State Board and successive City administrations, that, as between the two, the *prior or paramount* duty of supervision and inspection lay upon the State Board. There was some effort made at the inquiry before me to prove that the State Board had always put upon the City the prior or paramount duty of inspection, but it failed. I do not find that the State Board has ever hitherto made any formal declaration to this effect. The nearest approach to this was in a written report made in 1905 by a committee of the State Board on infant mortality in the public institution on Randall's Island, in which the committee stated that it would be the duty of the City Commissioner of Charities "to make sure by careful supervision that all such infants committed by him to private institutions receive proper care and attention"; but there is no statement here as to priority, and the committee went on to say that "the work of the institution can, no doubt, be materially improved and it will be the duty of the State Board of Charities to see that this is done so far as practicable". Far more significant than this was the attitude of Secretary Hebberd in 1907, when he resigned the secretaryship of the board and became Commissioner of Public Charities in the City of New York. He made no inspections of such institutions and declared before me that he had no staff and no authority, and that the rules made by the Board of Estimate and Apportionment, referring to the budget rules, gave him no authority. He was in error as to this, for when he was in office the budget rules did carry such authority to his department. But the point is that the Secretary of the State Board, thoroughly imbued with the views of the State Board, assumed officially in New York City that the City had no duty to inspect and adopted the policy of all the incumbents of his office, before and after, until the present administration, of relying exclusively upon the reports and certificates issued by the State Board as to these institutions.

Although the City administration claims to have ascertained in 1911 and 1912 that conditions in some of the institutions were deplorable and although the comptroller was specifically advised in 1912, by means of an elaborate communication from the Secretary of the State Board, that the

institutions were not providing the requisite educational facilities, the City administration continued to rely upon the State Board to see that its rules providing for the care and education of the inmates of the institutions were obeyed. The comptroller responded to this letter from the secretary by advocating and securing an increase in the per capita payments to the institutions, but, as I have said, reliance in the system of exclusive inspection by the State Board was continued. It should be said that at no time has the State Board notified the City administration that the inspection force of the board was inadequate.

City does not Issue Certificate.

Further, successive City administrations have found in the certificate of compliance issued by the State Board of Charities an excuse for not giving the certificate of the Commissioner of Public Charities that the children have been received and retained by the institution pursuant to the rules of the State Board, as required by law, as a condition of payment to the institution (Charter, Sec. 661). While I understand and sympathize with the explanation, I cannot see any justification for the failure of the Department of Public Charities since 1897 to have given this certificate. Nor, so far as appears, has the City sought to amend the law in this respect.

City's Duty to Issue Certificate Presupposes City Inspections.

The imposition upon the Department of Public Charities of the duty to give this certificate presupposes an independent series of City inspections, unless the City felt it could rely upon a comparison of the State Board's inspection reports with the rules of that board. The Department of Public Charities is not, however, dependent upon an implied right of inspection. Most, if not all, of the time since 1906, there has been provision in the City's budget rules for visitation and inspection of these institutions by representatives either of the Department of Finance or the Department of Charities, or both. During the critical period of 1914 and 1915, however, the Department of Charities had, under the budget rules, access only to the records of inmates. The City gains the power to establish these budget rules through the provisions of the Charter, Sections 226 and 230, all appropriations being discretionary and therefore subject to conditions. This gives the Board of Estimate and Apportionment large opportunities, for it can impose any condition. The comptroller, under these budget rules, may withhold payments to these institutions whenever he deems it in the public interest to do so, and upon confirmation of this by the Board of Estimate and Apportionment all payments to any such institutions shall end. The Commissioner of Public

Charities also selects from the budget lists the institutions to which he will commit and thus has a distinct power over the institutions, but in exercising this power he is subject to the veto of the State Board of Charities if it chooses to certify that a given institution has not complied with its rules; and he may not commit to a given institution outside of New York City unless the State Board has certified that it is free from fire and other danger (Sec. 664). The mayor in person or by representative may attend meetings of the boards of these institutions, but this is obviously largely impracticable as a means of control.

City Should Not Be Compelled to Inspect—The State Board Should.

I am of the opinion that the City should inspect these institutions from time to time as to it may seem desirable, and should be permitted to retain all the powers and privileges that it now possesses in respect of inspection and commitment, and to impose all reasonable conditions upon its voluntary grants of aid to these private institutions, and I know of no organized movement, sectarian or otherwise, to interfere with these rights. But in view of the powers and duties imposed by the constitution and the laws upon the State Board of Charities in respect of these matters, and in consideration of the fact that these powers and duties, in so far as they are required under the constitution, must remain, I am opposed to any statutory requirement, either express or implied, that would *compel* the City, in any of its departments, to visit and inspect these institutions, always excepting of course the functions relating to health and fire prevention and protection, which should be discharged by the City Departments of Health and Fire, respectively. I shall therefore recommend the repeal of this provision in Section 661 of the charter which imposes upon the Commissioner of Charities the duty of issuing, as a prerequisite of payment, his certificate that the institutions have complied with the rules of the State Board of Charities, carrying with it, as it does, and of necessity, the compulsory duty of some degree of inspection. Approval of the recommendation that I have already made that the State Board shall give such certificate and be given the means with which to make it, will furnish the comptroller with such authority as he should require, under the constitution, for payments to the institutions. The control of the City over these institutions will not be lost by relieving it of the duty of issuing the certificate and depriving it of the consequential power of withholding it, a duty that it has never discharged and a power that it has never exercised, for there are ample powers left to the City in what I have already enumerated.

I am moved to the conclusion that the City should be free of the *compulsory* duty to inspect these institutions for several reasons:

(*a*) The State Board must continue to inspect and supervise and make rules for these institutions because the constitution requires it. Wherever it can be avoided, I am opposed to multiplied compulsory official inspection, with all its annoying and conflicting advice, based on conflicting standards, and particularly in this case, where there would be inevitable disputes as to the interpretation of the State Board rules. Support for this may be found in the opinion of the Court of Appeals in Matter of Juvenile Asylum, 172 N. Y. 50, where, referring to the constitution, the court said:

> "Its manifest purpose is to make all appropriations of public moneys by the local political divisions or municipalities of the state to institutions under private control, subject to the supervision and rules of the State Board of Charities."

In Mt. Sinai Hospital *vs.* Hyman, 92 App. Div. 270, the court said:

> "All appropriations must be subject to control by the State Board of Charities, and such is the constitutional provision."

(*b*) One adequate official inspection should and will safeguard the welfare of the children in the institutions and the expense of another should be avoided.

(*c*) The City, in periodically examining and re-examining to determine the circumstances of the child and of the family, to see if the child is a proper public charge, is already performing a duty which, I think, was imposed by the constitution upon the State Board.

(*d*) Uniformity of law and procedure throughout the state calls for a change, because I do not find that elsewhere in the state the burden of certifying compliance with the State Board's rules is imposed on the locality. Every locality is entitled to rely upon the proper discharge by the State Board of the duties imposed upon it under the constitution. The rule that a special act, such as the charter, repeals *pro tanto* provisions as to supervision by the State Board contained in the earlier State Charities Law, as urged by counsel, has no application.

(*e*) The doctrine of home rule has no legitimate bearing, because the care and education of the children in these institutions, while remitted to

the localities to supply the funds, is a matter of statewide concern in the same sense as is the care of the children in the public schools of New York City. The Court of Appeals held, in Gunnison *v.* Board of Education, 176 N. Y. 11:

> "The idea of counsel that conduct and management of the schools is a city function is an obvious mistake. The settled policy of the state from an early date was to divorce the business of public education from all other municipal interests or business, and to take charge of it as a peculiar and separate function through agents of its own selection and immediately subject and responsible to its own control. For more than one-half a century the courts have accepted this rule and acted on it."

In the report to President Roosevelt of the National Conference on Care of Dependent Children, held in Washington in 1909, was this statement:

> "State Inspection.
>
> "The proper training of destitute children being essential to the well-being of the *State,* it is a sound public policy that the State, through its duly authorized representative, should inspect the work of all agencies which care for dependent children, whether by institutional or by home-finding methods and whether supported by public or private funds."

In what I have already said, I have indicated that my view is adverse to the suggestion in the brief of counsel for the State Board that the only kind of inspection that the State Board can give is what counsel calls "a supervising inspection", and "that there is much justice in the claim that the state should pay the expenses of proper inspections made by the different municipalities of the private charitable institutions it (*sic*) employs." With the difference between a "supervising inspection" and a "proper inspection", and the present capacity of the State Board for either, I shall deal later. I see no wisdom or propriety in the state paying the bills of municipalities for inspections that the constitution requires a state department to make.

State Board Surrenders Power.

At the close of the hearings before me, this question of the City's certificate and inspecting for the purpose of enabling it to certify might

have been regarded as in a measure academic, because, as I have said, the City has never certified, although the statute has required it, and has never inspected, except in isolated instances by the Department of Finance, until 1914, when the present administration made inspections here and there for reasons which will be referred to later. But since the hearings closed, two significant things have happened. The State Board has amended its rules so as to make it no longer necessary for the comptroller to require certificates of compliance, signed by the Secretary of the State Board, before the payment of bills. The City administration has decided it must comply with the provisions in Section 661 of the charter, requiring a certificate from the Commissioner of Public Charities and the Department of Public Charities is creating standards of inspection and organizing a staff of inspectors to enable the Commissioner to issue the certificate as required by the comptroller. The situation is such, therefore, that prompt legislative action alone will relieve the City of New York and the other localities of the state from an unjust and an unnecessary burden that the state must continue to carry in any event short of constitutional amendment.

By amendment of the rules in the spring of 1916, which in effect is a repeal of the statute, the State Board has taken from the City a prop on which, without authority of law, it has been relying for twenty years. It has made acute the City's obligation to certify and inspect. But, in order to effect this, the State Board has voluntarily surrendered what it and its members have frequently declared was a most effective means of compelling the institutions to do what the board wanted them to do. The record before me is full of testimony as to the effect of withholding the certificate. The board in its report for 1911 said:

> "Such action, although seldom taken, *has invariably resulted in the improvement desired.*"

Secretary Hebberd said it gave the board "very close supervision", and it is the power that the board has *"to enforce its advice"*.

In the inquiry before me, the board asserted that it has no corrective power; again, that such corrective power as it has is difficult to employ; yet it now surrenders deliberately the most effective weapon that it has. One would think that the board dislikes power for fear it would be held responsible for its use. It is true that the board continues to issue the certificate, but, as the board has relieved the institutions from the

need of obtaining it in order to get their money from the City, the certificate may be framed or it may be treated as a scrap of paper. I see no other use for it.

It will be observed that, while the State Board has amended Rule 3 in the manner described, it has not amended Rule 4, which provides that the institution is entitled to notice, doubtless from the State Board, before payment can be refused for failure to comply with any rule or regulation or order of the State Board. How then, in the absence of such notice, may the City stop payment by withholding its own certificate when it seems clear to it, after inspection, that the institution has failed to comply with the rules of the board? This suggests, if it does not invite, litigation. This question will not arise if my recommendation is adopted that the State Board certificate, and not the City's certificate, should be the basis for payment.

Having concluded such examination of the law and the procedure thereunder as I have considered necessary in order to determine the relative responsibilities of the State Board of Charities and the administration of the City of New York with respect to these institutions, both as such responsibilities are and as it would seem they should be, I now turn to an examination of some general factors that affect public supervision of dependent children, whether by State or City or both.

Numbers of Dependent Children.

In the United States, there are 110,000 children in 1,200 private institutions for the care of dependent children, of whom 37,094 are in the State of New York in private institutions which receive public aid, including 25,397 in 39 New York City private institutions receiving public aid. Of these 25,397, there are 3,691 in Hebrew, 5,794 in Protestant, and 15,912 in Roman Catholic institutions. There are approximately 5,000 more in private institutions in the State of New York not receiving public aid.

The "New York System".

The system of grants of public aid for the partial maintenance and training of dependent children in private institutions, which has come to be known as the "New York system", was regarded as intrenched by the leaders of the constitutional convention of 1894. It certainly is not less so to-day. It is viewed with friendly and unfriendly eyes. The friendly would have it remain always; the unfriendly—at least, the thinking unfriendly—find no practicable way to be rid of it. Certainly the reports of the State Board and of the City have no program that contemplates its elimination. Commissioner Kingsbury stated in

his 1914 report to the Mayor, which went to the Governor, that "we are appreciative of the fact that existing conditions make such a system for the time being inevitable".

There are marked differences of opinion among those conspicuously identified with what are known as the private religious charities as to the wisdom of public grants to private institutions. Notable among these was the late Thomas M. Mulry, member of the New York State Board of Charities, unselfish and devoted friend of the Roman Catholic and other charities and firm adherent of the "New York system". On the other hand, Mr. David F. Tilley of Boston, member of the Massachusetts State Board of Charity, also prominent in Roman Catholic charities, opposes public aid on the ground that it discourages private benevolence, asserts that private institutions without public aid are stronger than those with public aid, that it is difficult to withdraw support that is once extended, and that outside of New York the amount of public aid given to private Catholic institutions is insignificant. He recognizes special difficulties in the New York situation.

Institutions Indispensable.

It is apparent that all that is needed to end public aid in New York City is a vote of the Board of Estimate and Apportionment. It is equally apparent that such action would close many of the institutions and throw back upon the City thousands of these minor wards. This would call for new instruments of care. Some children could not and should not be cared for outside of good institutions. For example, the especially difficult child, often bordering upon the defective, the delinquent, the ungovernable and the diseased, those in need of temporary refuge as a result of sudden and transient misfortune in the family, and many between the ages of 12 and 16 who should receive the industrial and vocational training which they cannot receive in the best private boarding or free homes. This is why thinking people should hesitate before urging the withdrawal of public aid from private institutions and before declaring that "the poorest family is better than the best institution".

Extent of Public Aid.

In saying that to cancel public grants would close many private institutions, I would not be understood as entertaining the view that these institutions are entirely supported by public grants. There may be some cases where the narrow means of the friends and benefactors of the institution have brought reliance on the public treasury to a point where the full cost of operation is met by the City, but such cases are rare. Moreover, in such cases it should not be forgotten that the institution

owns and maintains the plant and meets the carrying charges, free of taxation, to be sure, and enjoying what is called the unearned increment (when it exists), and that in some of the institutions, Roman Catholic particularly, the service of many of the women is given in a spirit of devotion and without pecuniary reward. It has come to be generally accepted that private institutions in the State of New York represent an outlay of $100,000,000, and in New York City alone of $60,000,000.

The comptroller furnishes figures showing that for the year 1913, the City of New York made to Protestant institutions for dependent children payments amounting to 43 per cent. of their total expenditure, including expenditures for maintenance of plant and equipment and fixed charges; to Jewish institutions 57 per cent.; and to Roman Catholic institutions 71 per cent. These payments are on a per capita basis and therefore uniform. The remainder of the expense is, of course, contributed by private benefactors. During the twenty years since 1896, about 82 per cent. of the institution population has consisted of public charges.

The Family Home *versus* The Institution.

I find, however, a sentiment, very generally held, that after all has been said in favor of the good institution that can be said, normal children should not be deprived of a wholesome family life except for reasons that are compelling. This is the view expressed to me by representatives of the State Board and the City alike, by persons unaffiliated with either, by persons of all religious faiths. This means first the preservation, wherever possible, of the natural home of the child; secondly, the transfer of a normal young child from the natural home to a good foster home instead of to an institution; and, thirdly, the prompt placing-out of such child in a good foster home, either free or boarding, where it has first entered an institution.

The State Board of Charities, in its last annual report, announced that nearly 20 per cent. of the children discharged from institutions during the year ending September 30, 1915, have spent more than three years in the institution, and nearly 10 per cent. over five years, some over ten years, and that the institutions should be "for normal children only a temporary means of refuge". Dr. Stephen Smith, of the State Board, states that the fixed policy of the State Board "is based on family care as its ultimate end and purpose"; and Mr. Choate, in the course of the constitutional convention debates, said he thought the State Board rules would provide that a child should not be kept in an institution "except

as a temporary refuge and no longer than possible to have suitable provision outside, where it may take its place in society and be an attendant on the public school". But the rules of the State Board do not contain such provision. While, as I have said, the State Board is on record as favoring placing-out, it is not, I think, unfair to say that my attention has not been called to any real effort it has ever made to promote it. Secretary Hebberd is, however, entitled to much of the credit for drafting, promoting and procuring the passage of the Child Welfare Law of 1915. It is expected that the operation of this law will take perhaps 2,000 children out of the institutions and prevent many from entering them. The Governor, in approving the measure, said, the proposal is to substitute the home of the mother for that of an institution. "The welfare of the child is the primary consideration".

Probably the most compact statement in favor of preserving family life is that of the Washington Conference on the Care of Dependent Children to which I have referred, the unanimous report of a committee representing the three leading religious faiths:

> "Home life is the highest and finest product of civilization. * * * Children of parents of worthy character, suffering from temporary misfortune, and children of reasonably efficient and deserving mothers who are without the support of the normal breadwinner, should, as a rule, be kept with their parents, such aid being given as may be necessary to maintain suitable homes for the rearing of the children. This aid should be given by such methods and from such sources as may be determined by the general relief policy of each community, preferably in the form of private charity, rather than of public relief. Except in unusual circumstances, the home should not be broken up for reasons of poverty, but only for considerations of inefficiency or immorality." * * *
>
> "As to the children who for sufficient reasons must be removed from their own homes, or who have no homes, it is desirable that, if normal in mind and body and not requiring special training, they should be cared for in families whenever practicable. The carefully selected foster home is for the normal child the best substitute for the natural home." * * *
>
> "It is recognized that for many children foster homes without payment for board are not practicable immediately after the

children become dependent, and that for children requiring temporary care only, the free home is not available. For the temporary, or more or less permanent, care of such children different methods are in use, notably the plan of placing them in families, paying for their board, and the plan of institutional care. Contact with family life is preferable for these children, as well as for other normal children. It is necessary, however, that a large number of carefully selected boarding homes be found if these children are to be cared for in families. The extent to which such families can be found should be ascertained by careful inquiry and experiment in each locality. Unless and until such homes are found, the use of institutions is necessary."

Outdoor Relief.

Outdoor relief, as it is called, that is, direct aid to the family by the Poor officers or the Department of Public Charities, was abandoned for various reasons by Brooklyn in 1870 and New York City in 1873. It exists throughout the remainder of the state, but without adequate inspection. Preservation of the natural family home by the resumption of outdoor relief in New York City, preferably by private charity, would inevitably tend to reduce the number of dependent children, and, as a consequence, the number in institutions. Other methods of prevention of dependency, and consequently the preservation of the home, such as the fight against tuberculosis and blindness, industrial insurance, child labor reforms, as suggested by the Washington Conference, would tend toward the same desirable result. The President of the State Board said that the fact that so large a number of children "should be maintained in institutions emphasizes the need of preventive measures for the preservation of the homes from which they come and of intelligent efforts to place them in suitable foster homes".

Placing Out.

Opinion favorable to placing-out so widely held is, of course, based upon the assumption that it will be practised only to the extent to which superior homes can be found where the child may certainly be trained in the same religious faith as that of the parents, and that thereafter there shall be the most careful supervision of the homes, either by the placing-out agency or the State Board of Charities or both, and by the City where it feels it should. I do not fail to appreciate the difficulty of placing-out in New York City, due, in part, to the large immigrant population and the compactness of housing conditions. I

would insure religious training according to the faith of the parents by insistence upon some form of approval of the home by recognized representatives of the several religions, as each case arises, such as the approval of priest, rabbi, or minister.

The Commonwealth of Massachusetts has a placing-out system that is famous the world over. All public aid for dependent children in that state is expended in this form. None goes to private institutions. As Secretary Kelso says, the process involves no buildings or any of the physical aspects of plant and maintenance. If all the dependent children in Massachusetts were cared for in institutions, it would require 22 plants and equipment equal in size to its great Hospital School. The paid force that carries on this work in Massachusetts is 1 superintendent, 1 deputy, 48 visitors and 29 other employees. The transfers are not excessive. The demand in good homes for children is said to be greater than the supply. The number of children placed in one home does not exceed four and the sexes are separated. The death rate compares favorably with the community rate.

In Indiana, the state itself places-out dependent children. In Ohio, placing-out and supervision thereafter are carried on by the state through a division of child welfare in the State Board of Charities. Substantial progress in this direction has also been made in Pennsylvania, California and Michigan. Mr. Tilley, a Catholic member of the Massachusetts board, to whom I have referred, said: "Children should have a normal family life and normal children should be placed in family homes, either at board or free". At the last New York State Conference, a committee, including representatives of all the religious faiths, unanimously reported to the effect that no child should be deprived of an opportunity for family life merely because he is mentally slower than the ordinary child or because he has bad habits, and such child should be placed-out in a boarding rather than a free home.

There were under the general supervision of the State Board of Charities on September 30, 1915, children placed-out in free homes to the number of 10,155, and in boarding homes 4,890, total 15,045. It was admitted in 1914 that there were approximately 1,500 placed-out children who were not under the supervision of the State Board. I find no evidence, however, that the State Board has done or is doing anything toward making really effective its declared policy, which "is based on family care as its ultimate aim and purpose". There is no organized effort to add to

the number of licensed placing-out agencies or to press the institutions to hasten or to extend placing-out; nor do I find that the State Board has done aught to improve and make uniform the widely differing methods of placing-out which are employed at the several institutions.

The Department of Public Charities of New York City has recently, and for the first time in its history, resolved upon the exercise of the power conferred upon it in the charter to place-out children. A new Bureau of Child-placing is to be formed. Babies are already placed-out by the asylums in large numbers. The Department is to attempt to place-out, instead of committing, as many children as practicable between the ages of 2 and 6. The City is to pay $3 per week for board and clothing wherever necessary. This is the same sum as is paid weekly per capita to private institutions of the cottage type. The plan is to make a public appeal for private subscriptions for the remainder needed to defray the expenses for a superintendent, physicians, dentists and field agents, including nurses, etc. The expectation is that suitable homes for about 1,000 children will be found in the first year. In making this appeal for private subscriptions, the Department obviously appreciates that one result of the inquiry conducted before me has been to arouse public interest as never before in the welfare of dependent children.

There are no figures available from which one may determine how much more it would cost to place-out all the dependent children that should be placed-out than is now paid for institutional care. If the experience in other states is a guide, the plan is far from being either impracticable or prohibitive as to cost. Undeniably, there would be somewhat fewer dependent children under public care, because the child's parents often look with less favor upon a mere transfer from their home to the home of another than on the entrance of the child into the security of an imposing institution.

There is much to be said in behalf of placing in the State Board of Charities the power to select dependent children from the institutions and to place them out, either in free or boarding homes, the locality to pay the cost of care and maintenance. This is a matter which should receive prompt consideration by the new Bureau for Dependent Children within the State Board which I shall recommend. If, as the result of an advance all along the line in preventive measures against dependency and in promoting the cause of family care by placing-out, some institutions are rendered less crowded and vacancies arise, all could soon be filled by

defectives or subnormal children, for whom, as I have said, far greater provision must be made than now exists.

I find that under the provisions of the State Charities Law, Sections 301 and 304, the State Board is authorized to visit all foster homes, but that only public placing-out agencies are required to report to the State Board their placements (Poor Law, Sec. 106). The law should be amended so as to require all placing-out agencies to report their placements, in order that the State Board may be able to discharge its duty of visitation, and the State Board should be authorized to supervise all placing-out agencies, whether public or private, as to their methods of placing-out and the effectiveness of their visitation of the homes.

The Cottage Institution *versus* The Congregate Institution.

In harmony with the view that there must always be as close an approach as possible to the conditions of family life, all authorities are agreed that the congregate institution should, and eventually will, give way to the institution built on the cottage plan, although the latter is somewhat more expensive in construction and maintenance, and that such congregate institutions as remain should classify and segregate their inmates into groups. Rev. Father Higgins, Supervisor of Catholic Charities in Brooklyn, states that in the institutions the effort is now making to "approximate the child's abiding place to the family home", and that "the high plane already attained is a step toward the ideal in view".

The change from the congregate to the cottage type has taken place more rapidly among the Protestant and the Hebrew institutions in Manhattan, due largely to their greater resources and to the smaller size of the institutions relatively. It is admitted that it would cost $20,000,000 to make the conversion in the Catholic institutions alone in New York City. It is plain, therefore, that this cannot come about in a day, but the sooner the vital importance of the change is made known to the private benefactors of these institutions, the sooner the change will come. The Hebrew Sheltering Guardian Society of New York was a few years ago an overcrowded congregate institution in the heart of the city. The board of managers sold the property and moved to the country and have established there an institution on the cottage plan on the most progressive lines. What one institution has done, another may, and in the end will do.

The Private Institution *versus* The Public Institution.

No avowed adherents of the public institution for dependent children as against the private institution for dependent children appeared before

me. I could not sympathize with a movement, if there were one, to substitute the public for the private institution for dependent children. I can fancy no ills in the private institution that would not quite as readily arise in the public. Experiences in the care of feeble-minded in the public institution at Randall's Island do not encourage the thought of public institutions for dependent children. It should be said, however, that unquestionably an extensive improvement in the administration of that institution will follow the report of the expert commission that has investigated the institution at the request of the present Commissioner of Public Charities, if such improvement has not already taken place. The staggering cost to the New York City taxpayer of establishing and maintaining sufficient public institutions to care for the dependent children in New York City would end discussion of the matter, even if there were not the question of adequate religious training for the young child, and the further legal question whether such plan would not be regarded as a return to the system of almshouses, forbidden by law as homes for children.

The question remaining for consideration is, how has the State Board of Charities discharged its duty under the constitution and the laws toward the private child-caring institutions in New York City. Whether this question is examined in pursuance of the mandate in my commission to "examine and investigate the management and affairs of the State Board of Charities", or in pursuance of the injunction in the letter to make careful inquiry into the charges of the City, justice to all concerned, particularly the wards in the institutions, requires consideration of the methods employed and results achieved in these institutions by the State Board under its rule-making and visitational power since 1894.

Form of State Board Rules.

First, as to the rules. It is suggestive of the general attitude of the State Board that its rules were adopted after conferences with the representatives of the institutions which were to be subjected to them and with their approval and consent.

The rules with which we are now chiefly concerned are the following:

> "6. The inmates of all charitable, eleemosynary, correctional or reformatory institutions, wholly or partly under private control, who are retained therein as a charge upon any county, city, town or village, shall be humanely treated and suitably provided with food, lodging and clothing and whatever further may be necessary

for their safety, reasonable comfort and well-being, and a copy of the dietary shall be furnished, upon request, to any commissioner, officer or inspector of the State Board of Charities by the officer in charge of such institution.

7. Provision shall be made in existing institutions as far as required by the Board, and in all institutions hereafter constructed, for suitable outdoor recreation facilities and for adequate indoor recreation rooms and equipment which shall be in addition to rooms used for dormitories and dining-rooms or for other purposes.

8. Children of school age, retained in any such institution in whole or in part at public expense, shall receive regular and suitable instruction in at least the common school branches of reading, spelling, writing, arithmetic, English grammar, literature of the English language, geography, United States history, civics, physiology and hygiene, and elementary drawing, and provision shall be made for the manual and industrial training of children of twelve years of age and over in a manner approved by the State Board of Charities, except in the case of any child of twelve years of age or over who shall have been certified by the attending physician of the institution as being physically or mentally unable to receive such training."

There is no rule calling for vocational training in any form, although it is difficult to perceive a real distinction between vocational training and efficacious industrial training, which is required by statute. There is no rule calling for the formation of clubs or for any degree of after-care. The President of the State Board said that the rules cover what the constitution and the laws require, but omit all else, however greatly the board may desire it. The literal meaning of this is that the rules, which should be a compendium of an ever developing standard of child care in the institutions, keep pace only with legislative enactment. The legislature has never amended the rules and has enacted no law relating to what the board should require since 1895. Oddly, the State Charities Law since 1895 has required industrial training in the institutions, but there was no mention of it in the rules until 1910.

The President said he thought the board had once adopted a rule against corporal punishment. It met with a storm of disapproval. It was repealed. The rules now call for a record of punishment authorized,

but are silent as to punishment actually employed. The President of the board conceded that the State owes a greater duty to institution children than to those possessing a more favorable environment in their own homes, and the board itself has formally reported to this effect. And yet, he said, it would not embrace within its rules provisions tending to promote this.

Size of State Board's Inspection Staff.

Secondly, as to visitation, inspection and enforcement. The State Board's staff of paid inspectors grew from 3 in 1896 to 21 in 1915, falling to 19 in 1916; but of these only 8 inspect private institutions, and of these 8, only 3 or 4 are available regularly for children's institutions in New York City. Eight inspectors are relied upon to inspect 640 institutions once a year, 364 of which, including dispensaries, are in or near New York City.

It is now practically conceded by counsel that the State Board had not sufficient inspectors and did not make sufficiently frequent visits to justify it in making its own certificate of compliance or to enable it to say that the institutions had reasonably obeyed the rules of the board or to safeguard satisfactorily the interests of the children, and he points out that to do this, not to mention inspection on the basis of any such standards as the City administration now requires, would necessitate an extensive addition to the inspectorial staff. I quite agree with him in this, but the fact is that the State Board itself has obviously and avowedly been reasonably well satisfied with the quality of its inspection and the number of its inspectors for many years. The President of the board testified:

> "The State Board, since it was established as a constitutional body in 1894, has been quite well equipped with a staff of inspectors. * * * We have received appropriations which have been sufficient to enable us to extend our work as we regarded the needs of the organization. * * * We ask for employees as we think we need them. * * * On the whole, there has been sufficient inspection service to see that the inmates have reasonable care and attention. * * * I consider that we have ample power of visitation and inspection over these institutions and have had practically since 1895"—referring to the 26 institutions over which the City's charges arose.

He said the board would prefer to have two inspections each year. Dr. Smith said four.

Not only has the State Board been satisfied with the size of its inspectional staff and, as a rule, obtained from the legislature what it asked for, but it apparently has adhered to a policy about this matter. In thirty-one years, the President of the State Board thought he had been before legislative appropriating committees not over six times. He had not presented the subject of the need of increased inspection to any governor. In the past ten years, all administrations save one have been friendly to the State Board, he said. When the President was pressed to explain why the board had not asked for more inspectors, he said that it was because the board was watched by "the politicians" and did not want to increase the force suddenly for fear of legislative attack "with a view to abolishing or cutting us down to three, in order that some political party or some three politicians might step into the saddle and control these large affairs". Inanition, bred of fear, is what this suggests.

It appears that the state pays the inspectors in the Insurance Department salaries from $1,800 to $6,000, most of them $3,000. The salaries paid the State Board inspectors of private institutions run from $1,200 to $1,800. This contrast in the compensation made by the state to inspectors of assets as against the compensation made to inspectors of children further suggests that there is need of a vital force within the State Board, constantly pressing for the means to perform the work that society expects of the board.

Results of Inspection as to Education prior to 1914.

With respect to the results achieved by the State Board in the children's institutions prior to the City's investigation in 1914, it appears to be clear that during the twenty years preceding there was distinct improvement in many matters, such as sanitation and fire protection, upon the latter of which the State Board was justly most insistent. It is, however, the subject of education, which the board treated more exhaustively in its annual reports, that requires closer consideration in this inquiry.

In 1895, as I have said, the legislature concluded that the State Charities Law should contain an express provision that the State Board shall "aid in securing the establishment and maintenance of such industrial, educational and moral training in institutions having the care of children as is best suited to the needs of the inmates," and when it visited the institutions would ascertain if the methods of this training were best adapted to the needs of the inmates. Very early the board recognized that "mentally these children were below the normal. Accordingly, they

require, even more than do the ordinary children living in their own homes, with the protection of their parents, the benefits of education and training to fit them for self-support"; also that "small classes and good equipment are needed for successful work with backward or defective children"; and "the institution child, being without the incentives for individual effort that the child in the average home has, is the more in need of special courses to secure his interest and develop his initiative".

I agree with this. These children start in the race heavily handicapped. The public assumes their care and training. It is in the business of training and educating all children in the public school and in the institution. It is, or should be, the model teacher as well as the model employer. To make all children the best of citizens is the noblest economy. The highest development of the republic depends upon it. If dependent children in institutions need special training on account of this handicap to enable them to have an even chance in the race, it is plainly sensible and just to furnish it.

In 1905, the board admitted that it could not satisfactorily do what it was required to do under the law as to education. In 1901, it began to ask the Legislature in its printed annual report for an education inspector, and continued frequently to ask for him, but has not secured him and has stopped asking for him. In 1912, it reported that in many institutions the methods, organization and facilities for manual and industrial training in their simpler forms, and also even the elements of trade instruction were far behind the needs. In 1913, it reported that classes in many cases were much too large, that not all teachers were qualified by training or experience for their important positions in teaching backward children, that in general the facilities for useful training were not utilized to their fullest extent, that this was particularly true in outdoor employments, but even in indoor employments the question of training was sometimes made secondary to ease of administration or economy in maintenance. In 1914, it reported that the failure to provide a high grade of teaching was one reason for children being inferior to those in the public schools, although it was partly due to mental retardation and irregularity in attendance at school prior to commitment; that in few instances were social advantages and industrial and scholastic training well correlated; that many were unable, because of lack of proper facilities or well qualified officers to treat children individually in accordance with their needs; that while several institutions were established on the

cottage plan and to a degree overcame the institutional conditions, and there were others in which the management was such as to encourage the development of initiative and self-reliance in the children, the situation was in need of much improvement. In 1912, it reported that it was highly desirable that in all cases where possible the children should be sent to schools outside of the institution premises and placed in classes not entirely made up of institution children. Yet it appears elsewhere that of the 27,000 children in institutions in New York City, there are only about 100 in public high schools. It is estimated that there should be 1,000. In only those institutions receiving money out of the public school funds is there supervision of any kind by the Board of Education.

The most complete statement by the State Board as to educational conditions in the private institutions in New York City is found in a comprehensive letter from Secretary Hebberd to Comptroller Prendergast in August, 1912. In it statements are made concerning fourteen of the institutions which were adversely reported on by the City in its investigation of 1914-1915. The letter contained comments with relation to eighteen institutions, but it is stated that they illustrate generally the need for better training of the children. The writer alleges variously as to the institutions, but summarily stated it is that the State Board found in 1912 that children of twelve had only two hours' school work daily, teaching force largely ill equipped, some children not in school at all, little industrial training except in caring for the institution, classes too large, progress not what it should be, industrial training confined to repairing shoes, such industrial training as was given had little educational value and usually did not proceed beyond the daily labor in caring for the institution.

Such is the State Board's own record of its achievement in what is probably the most important field of institution care! This is the record after seventeen years of supervision under a law that made it compulsory on the board to aid in securing such industrial and educational training as is best suited to the needs of the children and to ascertain if such is being given.

Having considered the extent to which the State Board system has developed the fundamental matter of education in the institutions in New York City, in so far as it is exhibited in its own annual reports and in the letter of its secretary to the comptroller in 1912, we reach consideration

of the effect of the New York City investigation of 1914 and 1915 in this and in other fields of institutional care and training.

City's Financial Investigation in 1911.

In 1910 and 1911, a committee of the Board of Estimate and Apportionment, consisting of Mr. Prendergast, the Comptroller, and Mr. Mitchel, the President of the Board of Aldermen, in an investigation of the accounts of these institutions, ascertained incidentally conditions affecting the welfare of the children in some of the institutions that Mayor Mitchel declares were deplorable. These were not described in detail, then or since. It does not appear that any report of this was made to the State Board of Charities. Comptroller Prendergast, in December, 1911, wrote a foreword to the public report of the committee. In this he pointed out that the official duty of the City administration had always been—

> "that such regulation over the institutions as was necessary would be given by the State Board of Charities. How well equipped the State Board of Charities was to give adequate supervision has not, apparently, been a matter of local concern. This condition of aloofness with respect to the management of private institutions has been characteristic of even the Department of Public Charities. * * *
>
> "Where responsibility rests for the supervision of service; what degree of regulation should be exercised; who should determine the conditions of commitment and discharge; what character of treatment and service should publicly supported inmates receive in private institutions; what kind of education should be given them; what efforts are made by the institutions properly to equip their inmates to meet the obligations of citizenship and economic independence after discharge; whose responsibility it is to find permanent foster homes for children bereft of parents and committed, in consequence, to what in theory should be only the temporary custody of the institution—these and many other questions vitally affecting the welfare of the thousands of children who by misfortune are brought into the care and keeping of public authorities it has apparently been nobody's business heretofore to solve."

Mayor Mitchel's Administration.

When John Purroy Mitchel became Mayor in 1914, he named John A. Kingsbury, possessed of special attainments in the field of social welfare, as Commissioner of Public Charities, and specifically charged

him to ascertain the condition of dependent children in the private institutions, recalling to him the work of the committee in 1911. Commissioner Kingsbury selected as his second deputy William J. Doherty, who had long been the efficient secretary of the Catholic Home Bureau, and, in contemplation of what has followed, placed him in direct charge of these children's institutions.

Com. Kingsbury's Investigation of 1914-1915.

The City's investigation of the institutions, which resulted in the formulation of these charges, was shortly under way. The Mayor was an intimate adviser from the beginning. It is evident to me that the investigation came as a consequence of the financial investigation of 1911, and that the City had at last, and for the first time, decided to exercise its right of inspection and find out for itself what were the conditions in the institutions affecting the welfare of dependent children. The Mayor called it the discharge of a moral obligation upon the City. I have already pointed out that, in view of the duty imposed upon the City in the charter to issue certificates, there was by implication a legal obligation upon the City to inspect. But in the aspect of the case that I am now considering, it matters not which it was. In any event the City administration perceived an obligation and meant to perform it and did perform it.

Objects of the Investigation.

The objects of the City's investigation have been variously stated—to destroy the institutions; to convert the private institutions into public institutions; to place-out all the children in private families; to secularize the institutions; to take God out of the hearts of the children; to found charity upon morals and not upon religion; to attack particularly the institutions of one religious faith; to destroy the State Board of Charities. There is no evidence before me that would remotely justify any such conclusion. I am convinced that there is no basis for any of these claims and am amazed that apparently they have received such wide credence. But if any of them could have been the objective, it has been defeated in so far as it may depend upon any favor from me.

On the other hand, it cannot fairly be said, as sometimes it is said, that the sole object of the City's investigation was to establish suitable standards for the development of the institutions. This, I think, was the principal object of the investigation. It was so stated by Mr. Doherty in his address to the National Conference of Charities and Corrections in Baltimore in May, 1915, months before Commissioner Kingsbury suggested an investigation by the legislature or by the executive. Other

reasons for the City's investigation appearing in the testimony of the Mayor and the Commissioner and his Deputy were: To enable the Department of Public Charities to discharge conscientiously its duty in selecting institutions for commitments; to promote placing-out; to prevent improper payments by the City; to secure more efficient supervision and more efficient discharge of its duties by the State Board of Charities.

Members of Advisory Committee.

An Advisory Committee and associates were named early in 1914 by Commissioner Kingsbury to conduct the investigation. The members of the committee were Deputy Commissioner Doherty; Rev. Brother Barnabas, Superintendent of the Lincoln Agricultural School, a Catholic orphanage of the modified cottage type; Dr. R. R. Reeder, Superintendent of the orphanage of the Orphan Asylum Society, a Protestant institution of the cottage type; and Dr. Ludwig B. Bernstein, Superintendent of the Hebrew Sheltering Guardian Orphan Asylum, formerly of the congregate, now of the cottage type. These men were highly qualified for the work of this committee, and their associates were fully competent. It should be said, however, that Dr. Reeder and Dr. Bernstein were the heads of modern institutions, highly favored financially, and this circumstance suggests that it would not be surprising if in some respects their standards were higher than would be immediately attainable by some of the institutions.

Attitude of Institutions toward Inspections.

Some evidence was given of efforts to embarrass the program of the Commissioner of Public Charities, but most of it turned out to relate to matters other than his 1914 investigation of private institutions for children, and such of it as is significant, as the retirement of Brother Barnabas from the committee, and the pressure to procure the retirement of Dr. Bernstein, is overshadowed by the unanimity with which the institutions of all religious faiths opened their doors to the City's inspectors. It is true that at the outset a general protest was made that the Department of Public Charities should not repeat inspections of those branches of the institution service subject to the visitation of the Fire and Health and Education departments, and that one institution refused to permit inspection until the president of its board was consulted and threatened to march 800 children to the steps of the City Hall in case commitments were not resumed. But these were isolated cases and resulted only in delay. On the other hand, an incident significant of the attitude of higher church authorities toward official supervision generally was related by Thomas M. Mulry, who testified before me that he had advised the State

Board to withhold a certificate when the comptroller's committee was investigating in 1910, and the Mother Superior had said to him, "Who is the bigot that did this?" And Mr. Mulry replied that he was and that the certificate would issue when improvements were made. Subsequently he told this to the Cardinal, who said, "Keep it up; it will help the work along."

Resentment Aroused.

Public interest in these questions, during and after the public hearings before me, was not only intense, but unfortunately was characterized by much resentment. This feeling was general and was shown by the representatives of many of the institutions administered under the auspices of varying religious faiths. How much of this was inevitable and how much might have been avoided cannot, I think, be easily stated. It has always seemed to me obvious that the "New York system", as it is called, of granting public aid for the partial maintenance and training of inmates in private institutions—necessary, in a measure, as it has come to be, and possessing reciprocal advantages to the municipality and the private benefactor—has within it, nevertheless, seeds fruitful for dissension when rigid official inspection enters. So much of the feeling to which I have referred as was attributable to this was inevitable and had its basis in the City's investigation, begun and ended before I was appointed.

For so much of the resentment as may have been aroused from such methods of conducting my inquiry as seemed to me best, I am responsible. The evidence presented to me by counsel upon both sides of the controversy was so exhaustive that I found it unnecessary to investigate extensively along new lines. It would neither be becoming nor useful for me to protest my freedom either from religious animus or from personal or partisan affiliations tending to affect my judgment. Those who know me have already determined this in their own minds. Those who do not know me must base their conclusions upon my course throughout.

The Pamphlets.

But I do desire to say that some widespread public animosities might have been avoided if the so-called "Farrell-Potter pamphlets", on the one hand, and the so-lalled "Moree-anonymous pamphlet" on the other, had never been issued. All these were deplorable from every point of view. No one of them helped the cause it was intended to help. The examination that raged over them certainly protracted the hearings and probably confused in the public mind the real object of the general inquiry. I should not have called Father Farrell before me and permitted the examination of Mr. Hebberd, the Secretary of the State Board, as to his

relations with Father Farrell and Dr. Potter, had it not been that I desired to give Father Farrell an opportunity to correct certain statements about the Governor's commissioner, but above all, to ascertain what share, if any, Mr. Hebberd had had in the preparation of the pamphlets. It was plainly my duty to report to the Governor as to the qualifications for office of the executive head of the State Board and what manner of man he was. When the examination reached the stage where suggestions were made on the one side that the crimes of libel, perjury and conspiracy had been committed, and on the other that a crime had been committed in tapping telephone wires, I wrote an opinion pointing out that mine was not a judicial inquiry and that further recourse must be had to the Grand Jury. As I write this, the whole matter of the pamphlets is pending before a justice of the Supreme Court, and an indictment has been found by reason of the use of the telephone wires. For this reason, if for no other, I should refrain from further comment; but, in any event, I have said all that is required in view of the slight relation that the subject bears to the real question before me, especially since Mr. Hebberd has resigned his office as secretary of the State Board. In the interest of truth, however, I append the following list to show the sequence of events as established in the record before me:

DATA AS TO PAMPHLETS.

1916.

Feb. 10. Mr. Mulry told Mr. Hebberd there was to be an attack upon him (Hebberd). Mr. Hebberd spoke to Father Farrell, who said he had been authorized to defend the institutions.

Feb. 14. Mr. Moree, publicity director of State Charities Aid Association, conceived the idea of his pamphlet. He spoke to several about it at City Club, probably including Commissioner Kingsbury.

Feb. 14. Commissioner Kingsbury gave testimony which led to newspaper headline hereinafter referred to.

Feb. 15. Father Farrell dates and transmits "Open Letter to Governor".

New York *Herald* publishes "orphans and pigs" headline.

Mr. Moree works on his pamphlet.

Feb. 16. All newspapers print Father Farrell's letter to the Governor.
Mr. Moree talks with Commissioner Kingsbury and sends copy (except cover and one page) to Press Association to have plates made.
State Charities Aid Association meets and authorizes a committee to prepare a resolution to be sent to Governor as to investigation.

Feb. 15-18. Mr. Moree orders pamphlet from Blumenberg Press.

Feb. 18. Mr. Moree's copy for pamphlet reaches office of manager of Blumenberg Press.

Feb. 21. State Charities Aid Association committee meets and drafts resolution and is told by Mr. Moree of his pamphlet.
Estimate for Moree pamphlet sent to him by printer.
Commissioner Kingsbury procures money for printing Moree pamphlet.

Feb. 24. First Farrell pamphlet ordered ("The Strong Commission").

Feb. 24-25. Moree pamphlet printed.

Feb. 27. Mailing begun of Moree pamphlet.

Feb. 28. Last deliveries of Moree pamphlet made by printer.

Feb. 29. Second Farrell pamphlet ordered ("A Public Scandal").

Mch. 3. Third Farrell pamphlet ordered ("Charity for Revenue").

Mch. 3-4. Last Moree pamphlets mailed.

Mch. 13. Fourth Farrell pamphlet ordered ("Priest Baiting").

Extent of Investigation.

Commissioner Kingsbury's advisory committee in 1914 and 1915 investigated 38 institutions, one of which was a hospital. In the inquiry before me, they decided to rely upon 26 of these in support of the accusations of Commissioner Kingsbury against the State Board. Subsequently two were withdrawn, it appearing that there was some question of the City's right to commit thereto. The committee criticized the other 12 institutions, but not to such extent as to rely upon them to substantiate the charges. These 12 institutions were given favorable ratings by the committee. Mr. Doherty, in his address at the Baltimore conference in May, 1915, spoke of four of them, two Catholic and two Jewish institutions, as "bending every energy to measure up to the standards of progressive and enlightened child care". Commissioner Kingsbury said in his report to Mayor Mitchel, of December 31, 1914: "It is our aim to

strengthen those institutions which are striving to improve their work and at the same time to deal vigorously with those institutions which in the presence of undesirable conditions are making no effort to remedy them". He testified that he found the better institutions crowded, and in order to make room therein succeeded in sending back 1,200 children to their own homes in 1914.

Results of Investigation.

On the controverted list, there were 12 Catholic, 14 Protestant and no Jewish institutions. On the non-controverted or good list of 12, there were 8 Catholic, 1 Protestant and 3 Jewish institutions. The committee's ratings of institutions on the controverted list were lower, as a rule, among the Protestant institutions than among the Catholic. One may draw such inferences from this as he desires. It has no significance for me, one way or the other.

I have personally examined with care the inspection reports and other exhibits offered by the City's advisory committee and by the State Board with respect to each of the 24 institutions remaining on the controverted list, in some cases examining the reports of the State Board as far back as for the year 1904, and I have considered all the testimony that was received, particularly from the representatives of the institutions..

"Unfit for Human Habitation."

Commissioner Kingsbury did not rest with describing the conditions in some of the institutions as "undesirable", but, in his testimony before me said: "Many of them were unfit for human habitation". If I understand what is the common acceptance of the meaning of these words, I do not agree with him. On the contrary, I find that not one of them was "unfit for human habitation". It would hardly serve a useful purpose to refine upon this or to attempt to picture an institution for children that would be "unfit for human habitation", or to feel certain that two persons are thinking in the same terms when one says an institution is not fit for human habitation and another says it is. But I repeat that, as I understand the phrase, not one of the 24 institutions was near a state in which it could be said to have been "unfit for human habitation."

"Public Scandal and Disgrace."

Commissioner Kingsbury also said, in his testimony and in his report to Mayor Mitchel:

> "During the year 1914, however, we found that the conditions in some of these institutions bearing the certificate of approval by the State Board of Charities were such as to be little less than public scandal and disgrace."

In this I feel compelled to say he was right. Seven, at least, of the 24 institutions must be thus described. In not all of these seven was this true in the same degree or for the same reasons. In some or all of these seven institutions there was no manual or industrial training worthy the name, and such as there was, was limited to a fraction of the children over twelve years of age, no economic training, little organized physical training, utterly inadequate provision for outdoor and indoor play and recreation, inferior scholastic training in overcrowded classes, an impoverished social life, and dining-room equipment and service so wretched as to make it nearly impossible to teach table manners. In some institutions there were toilets in an undescribable condition, which evidently was not of a temporary nature, girls working long hours without compensation at hard institutional labor with scant opportunity for scholastic or other training, and in the heads of many of the children were found nits and vermin. In one instance, the institution was infested with bed-bugs, and had been more than once. In another, it was impossible to tell from the records how many children had died during the year, whether it was one number or another, or still another.

If this were the first or second year of official supervision, under rules that were in the making, this verdict might be harsh. But in view of the fact that most of these institutions have been receiving grants from the city for care and education, under regular inspection by the State Board, for twenty years, subject to rules calling, in behalf of the children, for "whatever may be necessary for their safety, reasonable comfort and well-being", and in the receipt of constant admonition from the State Board, and, as I have said, under a peculiarly solemn obligation to give these unfortunate wards that special training which would tend to offset the handicap with which they enter the race in life, it is certainly not unjust to say that their condition was "little less than public scandal and disgrace."

Commissioner Kingsbury said, in his report to the Mayor:

> "Naturally when we found on the certified lists institutions in which the beds were alive with vermin, in which the heads of boys and girls were itching with uncleanliness, in which antiquated methods of punishment prevailed, and in which the children were disgracefully overworked and underfed, we found it necessary to decline to commit children to these institutions and to decline to accept as reliable the official reports of the State Board of Charities."

With some qualifications, this statement was correct. There was no institution of which all these things might have been truthfully said, nor do I understand the declaration to mean that there was.

There was one institution in which the beds were alive with vermin; in another they existed to some extent.

There were twelve institutions, or one-half of those on the list, in which nits or vermin or both were found in the heads of some or many of the children. While it is not easy to keep an institution free from these, constant and intelligent attention will.

There were four institutions in which antiquated methods of punishment prevailed, not inhuman or even necessarily cruel, but indicating an utter misconception of the kind of discipline that will genuinely improve even an exceptionally unruly child; such punishments, for example, as striking a child on the head with a key, making him spend a part of his fifteen minutes at dinner standing with his face to the wall, making him sit on the floor behind the bed, making him wear bi-colored trousers, whipping large girls with a strap on the hands.

There were five institutions out of the 24 in which the older girls were overworked at hard institution labor, with little or no compensation, and were thereby cut off from opportunity for scholastic and real industrial or vocational training, but in only one or two cases would it be fair to say that they were "disgracefully" overworked.

There were three institutions in which the children were inadequately fed, and several more in which they were improperly fed, on the basis of minimum dietaries approved by the State Board of Charities and circulated among the institutions by that board.

Issue is as to State Board not as to Institutions.

In view of the fact that the question before me relates to the culpability of the State Board of Charities and not of the institutions themselves, and that improvements have been made or are in the making in all the institutions on the controverted list to such extent that they are in receipt of the aid of the city, with at least the tacit approval of the Department of Public Charities, the findings that I have made as to these 24 institutions are sufficiently specific. After I had concluded my examination of the record as to each institution, a recapitulation discloses that, by chance, under none of the headings that I have used do the adverse conditions relate exclusively to the institutions of either of the religious faiths.

Orphans and Pigs."

There were many newspaper accounts of the hearings before me which did injustice to some of the institutions and did not accurately state the testimony. I did all that I could to induce the newspapers to publish the good as well as the bad about the institutions that was coming out in the reports of both the State Board and the City, but usually it was without avail. In view of the injustice done, one incident requires, I think, specific mention. A newspaper printed this headline: "Orphans and Pigs Fed from Same Bowl". This was reproduced in the so-called "anonymous" pamphlet. It was based on the testimony of Commissioner Kingsbury that Mr. Doherty told him that the children emptied their bowls "into the can from which the soup or stew had been dished and that the same can was later taken out, as I remember, to feed the pigs with. That is one thing I remember." Commissioner Kingsbury gave this testimony in answer to an insistence that he tell what matters he based his charges on. In justice to Commissioner Kingsbury it should be noted that he did not testify, as the newspaper phrased it, that the orphans and pigs were fed from the same bowl. But his recollection of what Mr. Doherty had reported was faulty, for, while Mr. Doherty described most disgusting conditions of table service, he did not say that the can or bowl into which the remainder was poured was taken to the pigs. He did say that the pails containing the refuse were dumped into barrels, and his only reference to pigs was that the dining-room, after the boys had left it, looked more like a pig-pen than anything else. An institution witness made the matter perfectly clear by testifying that the tin pail in which the soup was brought and from which it was served, and into which the remainder was poured, was never taken to the pigs but was emptied into a garbage can in the scullery and the pails were thereafter scoured and polished each day. This institution from my own personal observation now well deserves the commendatory references made to it by Commissioner Kingsbury in his testimony for improvements made.

ate Board ensurable.

I find that the State Board of Charities was censurable for failure to issue certificates of non-compliance with its rules, or for failure to withhold certificates of compliance therewith, when and as often as they should have been issued or withheld, as to every one of the twenty-four institutions on the City's controverted list.

I find that this is true on the basis of the reports of the State Board's own inspectors and after full consideration of the testimony of the insti-

tution representatives. Serious faults, frequently criticized in these reports, most of which could have been easily remedied were permitted to remain unattended to for years, and, as a result, proper care and training were not provided.

I find it is beyond question that such vigorous, yet reasonable and just, action as the State Board might have taken from time to time prior to 1914 relative to these institutions, would have resulted in such improved conditions as would have made unnecessary or futile the City's investigation in 1914 and 1915.

I find that the reports of the City's inspectors also call for censure of the State Board for negligence as to certificates concerning every one of the 24 institutions, except in such cases, if any, as those in which the State Board may have recently withheld a certificate on the suggestion of the City Department.

City's Case Proved on State Board Inspection Reports.

The City has proved its case against the State Board out of the pages of the State Board's own inspection reports. The City's investigation and its inspection reports have served to bring into the light what was already wrapped up in the records of the State Board and lying, for the most part, unheeded in institution desks. I am not unmindful of the limitations upon institution boards of managers by reason of inadequate means or unsatisfactory superintendence or the like. I have been a member of an institution board of managers myself and from that standpoint have read the State Board's inspection reports containing their lists of "Needs and Defects" and "Recommendations", and for years have been in conference with the heads of other institutions, public and private. So, on the whole, I feel that I know how much attention is usually paid to these recommendations and how much drive there is behind them. Progress there has been in these children's institutions in New York City, and great progress it has been, as I have said several times; but, as I see it, if the State Board of Charities had discharged its full duty in the situation and the laws for the enforcement of its own rules, the institutions would have found the way, the City would have done its part, and in 1914 and 1915 there would not have been found such conditions in some of the institutions as to justify the characterization that they were "little less than public scandal and disgrace".

Quality of State Board Inspection Reports.

The State Board's inspection reports were not "widely at variance with the findings of the City's inspectors". There were many additions, of course, in some cases on vital matters, and often the City's inspectors

found defects and faults which the State Board inspectors did not, and sometimes, but rarely, the reverse was true, but in the main there were not wide variations in the ultimate conclusions of the two sets of inspectors, however widely the ratings differed. Nor is it fair to say that the agents of the State Board "had apparently gone through their inspection of these institutions with both eyes closed or with one auspicious and one drooping eye". The State Board itself has failed to furnish its inspectors with adequate standards against which they should measure the child-caring institutions, and has failed to provide or ask for enough inspectors, but the inspectors themselves are honest and vigilant.

State Board's Methods of Rule Enforcement.

What have been the methods of rule enforcement actually employed by the State Board? From 1895 to date, the board has once, and only once, issued a certificate of non-compliance with its rules, and this was in July, 1910, one day after the date of a report of inspectors of the Department of Finance in New York City reflecting most seriously upon an institution in Brooklyn. This institution is not one of those upon which the City's investigators reported adversely in 1914 or 1915. The record does not show what reason was given by the State Board for issuing this certificate of non-compliance. The duty of issuing this certificate of non-compliance is based upon a charter provision of 16 years standing. Yet the President of the State Board could not say whether the board had the power or duty to issue such certificate when warranted; "I think I must have known it". He said he "presumed the board would not issue it unless in its opinion the violation of the rules was so material as to be dangerous to the children in the institution." The effect under the charter of issuing a certificate of non-compliance is to prevent further commitments by the Department of Public Charities and, under the rules, to terminate the retention by the institution of any inmate as a public charge.

Certificate of Non-Compliance Issued Once.

Withholding Certificate of Compliance.

Apparently the State Board has never once withheld the certificate of compliance, and thus stopped payments, for the reason alone that an institution had failed to comply with the rule and the statute as to industrial and educational training, although this failure may have been persistent for four or five years, as shown in the inspection reports of the board itself. Indeed, failure along these lines has been continuous, as appears from the secretary's letter to the comptroller. On the contrary, the board has issued the certificate knowing that the rule and the statute were not complied with. In the briefs of counsel for the board, it

was asserted that it was the duty of the board, under such circumstances, not to say it was satisfied with the institution certificate. At the hearings, the claim was that, as long as the institution heads declared that they obeyed the rule, it was within the discretion of the board to add its signature and permit payments and commitments to continue, although the board knew the declaration was false, the board relying in promises of improvement or taking the position that the violation of the rule was neither substantial nor vital. In this the board would seem to set itself above the legislature. The President testified that the board would not withhold the certificate for this reason, but would merely continue to write the managers and to urge improvements.

Number of Certificates Withheld.

Out of a possible annual total of about 7,500 certificates, that is, a monthly certificate for approximately 640 institutions, the State Board withheld a total of 38 certificates on 18 institutions in 1910, 19 certificates on 9 institutions in 1911, 26 certificates on 13 institutions in 1912, 36 certificates on 20 institutions in 1913, 22 certificates on 16 institutions in 1914. When the City's investigating activities became fully apparent in 1915, 50 certificates on 37 institutions were withheld by the State Board. The Board had withheld the certificate as to only 8 out of the 24 institutions on the controverted list prior to the city's investigation. The President of the board explained that in the last three months they had held up more certificates in "the desire to strengthen our case". I have already pointed out that the evidence shows that the State Board regarded the withholding of this certificate as its most potent agency for reform.

No Application for Court Order.

The board has never once resorted to its power under the State Charities Law to issue an order upon court approval directed to an institution when, upon an investigation of an institution, it appears that "inadequate provision" is made for "a condition necessary to their well-being" (which would seem to cover industrial and educational training as required by law). The State Board is empowered to issue this order on approval of the Supreme Court, after notice to the institution to apply such remedy as the board shall specify in the order. Disobedience of such order is a misdemeanor. The board seems to have assumed that such order should issue only in some extraordinary and almost unheard of case, and that the court would not approve such order except in an extreme case. But the board has never applied for such order and does not know what the court would approve. It is inconceivable that any justice

of the court would venture to reject approval of an administrative order proposed by a competent State Board and designed to promote the welfare of these helpless wards of society.

Even in a case where cruel and inhuman punishment in the form of shackles and chains was discovered by the State Board in an investigation of a private institution in Westchester County in 1895, the order was not issued and not even was the certificate withheld, as far as the record shows. The institution remained open and similar conditions, such as confining children in small wooden cages, whence escape in case of fire would have been difficult, were discovered by the board in 1905. Even after the special investigation by the board in 1905, rough corporal punishment was inflicted and an inspector so reported to the State Board. For years the board's reports called attention to inadequate food, insufficient fire protection and inadequate bathing facilities, and still there was no application for an order and there was no withholding of a certificate, so far as appears, unless it was in 1905 when the board was making its second special investigation. The board carefully and deliberately refrained from making public its adverse reports. The institution finally voluntarily closed its doors three years later. There is no doubt that there were distinct improvements in this institution during these thirteen years, some of which may be attributable to the patience and kindly advice of the State Board. But no one can read the account without realizing that the board lamentably failed to exercise the power it possessed to end these abuses at once.

The State Board having never applied for a court order, only once in 21 years having affirmatively certified that an institution was not complying with its rules, thus electing to ignore violations of the statute and rules on the ground that they were not sufficiently serious to justify such certificate, and having also rarely withheld the certificate of compliance showing that it was satisfied with the institution's statement that it had complied, the question naturally arises, what did the State Board do to enforce compliance? The very fact that it did anything would seem to negative its contention that it was charged only with the duty of a supervisory inspection. To say that anything beyond that was self-imposed is, to my mind, only another way of saying that the board itself, beginning in 1895, recognized, if it did not discharge, the obligations imposed upon it by law.

It sent its reports of inspection to the boards of managers. They contained many criticisms by a band of inspectors, as to qualifications competent, as to numbers woefully deficient. There was a table of "Needs and Defects" in each report. But important critcisms contained in the body of the report were often not included in the list of "Needs and Defects". This in and of itself was not calculated to impress the managers. A number of "Needs and Defects" were carried in the reports from year to year in precisely the same language. This also was not a particularly incisive method of getting the managers to take notice. It wrote letters. It has several forms, printed or partly printed, to fit various sets of circumstances. Sometimes the form letter contained the statement that the report was "transmitted to the managers in the belief that the indication of any defect would assure remedial action", and that "it is transmitted by way of information and suggestion and with the hope that it will be of interest and service". But when an institution had the lowest rating, the managers were respectfully requested to consider the report at their next meeting and promptly to advise the State Board of their action to remedy the defects. The President and Secretary in numberless instances followed this up by more letters in cases where institutions did not respond satisfactorily. Sometimes improvements were secured; sometimes, as I have said, the same list of "Needs and Defects" persisted in the reports year after year.

Reports and Follow-Up.

The board adopted a system of ratings for plant and for management, calculated to stimulate the institutions and to serve as a guide in determining upon the form of letter to be used or whether the certificate should issue. So far as the institutions are concerned, the principle of the ratings was the same as a merit card in school. There is evidence that some institutions were affected by it.

Ratings.

The board early adopted one policy to which it has always given strict adherence—never to resort to publicity to end abuses or promote reforms in an institution. In 1905, after the institution in Westchester County to which I have referred had been twice within ten years formally reported to and by the State Board as inflicting brutal punishment upon children, it appears that the last report had found its way into the newspapers, and Secretary Hebberd wrote the managers in an apologetic vein, explaining that it was not the intention of the State Board to make it public, that, so far as he could learn, no one representing the board had

Never Resorts to Publicity.

made it public, and that he had been informed that one of the local managers had given it out.

Mr. Hebberd said before a committee of the last constitutional convention that "seldom will one hear any criticism of any of these institutions has been made public by the State Board". Mr. Gratwick, a member of the State Board, testified that his "fundamental proposition is to keep things out of the newspapers". The President of the State Board testified that "pitiless publicity is the last weapon that a state department ought to resort to. * * * I do not believe in publicity as a remedy to correct an evil; I believe in taking managers of an institution into your confidence and going over the situation with them. I am a conservative in supervision". On the other hand, Dr. Devine called attention to the fact that the New York newspapers cover Bellevue Hospital as a matter of routine, and the result is quick correction of abuses, if any.

Mr. Choate, in an argument before a senate committee at Albany, was speaking of grave abuses which had arisen in a New York State public institution and said that there should be an investigating body which "shall let the full sunlight of day into them and fearlessly make public what they see there, whether officers are pleased or displeased". He went on to say that it was generally sufficient to call the attention of the managers to faults, but when that was not sufficient, then it was "right and proper to appeal to the public ear and the public conscience. * * * Bring them to the attention of the public *through the press*, which will command in such cases, necessarily and inevitably, the cure of grievances of this sort, however long they may have been neglected."

olicy is atient ersuasion.

Patient persuasion is the avowed policy of the State Board. Never go to court; only once in 21 years directly interfere with commitments; rarely delay the institution in getting its money from the City; never make public any criticism of any abuse. Secretary Hebberd said: "As soon as you bring anything wrong to their attention, they correct it. We try to persuade them that our view is right and sometimes they come around to it, and more often they would come around if they had the money". To demonstrate the policy of the State Board toward the institutions, he said that he did not believe that ten out of the eight hundred children's institutions would come out and say that the inspection of the State Board had not worked well. Mr. Mulry, in a statement made some years ago, commented upon visitation that was sometimes unfriendly, engendering prejudice against state inspection, and added that "much

of this feeling is caused by misunderstanding due to the attempt of the inspector to pry too deeply into matters of no concern to the State Board". Mr. Mulry did not explain what matters were of no concern to the State Board. If he referred to those relating exclusively to religious training, he was of course quite right. The concern of officialdom in this ends with the commitment of the child to the institution of the religious faith of the parents, unless it is seen that public funds are used for religious training, which is forbidden by the constitution. Of this I have seen no evidence.

Rapidity of Action on Reports.

Under the State Board's method, improvement in the institutions was usually slow, but its disposition in committee meetings of the inspectors' reports and the fixing of ratings was unusually rapid. As pointed out by counsel for the City department, in 1914, the committee examined 613 reports (each consisting of many pages) in 750 minutes, or one in every 1.22 minutes. In 1915, it examined 544 reports in 775 minutes, or one in every 1.42 minutes. Not all these reports were inspectors' reports, but most of them were; and other matters, including ratings of every institution, special reports and letters were considered within this period. At one meeting, in October, 1914, 161 reports were passed on in a session of 120 minutes, during which the committee heard Secretary Hebberd as to conditions on Randall's Island. Every report was separately considered. In pointing out these things, I do not mean to condemn, or even criticise, the faithful members of this committee. They were unpaid men and did perhaps all that they could reasonably have been expected to do in passing upon inspectors' reports. Nevertheless, it is evident that it is the chief inspector and his staff that are really rating the institutions in the long run. In view of the time given to this by the committee of the board, it is humanly impossible for it to be otherwise. Is it any wonder that, under such a system, there came to be such persistent carrying from year to year of the same list of "Needs and Defects" and the use of so many printed form letters in the "follow-up" by the board? If my recommendation for a State Board Bureau for Dependent Children is adopted, there should be more opportunity for what may be called overhead inspection and rating than the present system affords.

Methods of City Department.

We have seen what are the methods of the State Board in enforcing its recommendations. They may be contrasted with those of the Department of Public Charities.

(1) The Department sent the reports of the advisory committee to superintendents as well as to the managers of each of the affected institutions (the State Board sends only to the managers). Some of the institutions immediately responded favorably to suggestions for improvement. Some did not. Many were obviously resentful over the criticisms. These criticisms were more numerous than any to which the institutions had been accustomed and were put in a different way. Some of them seem unreasonable and unjust. Some of the ratings were lower than they should have been. On the whole, there was a favorable response. There was nothing in the tone of the Department's communications to give basis for the hope that the recommendations and suggestions for improvements would be carried along perfunctorily from year to year. Mr. Doherty testified that: "In one institution we strongly directed it to abolish immediately the deplorable practice of exacting cheap labor from a group of defenseless girls 14 years of age and over, who were found rendering from eight to nine hours of hard service with no compensation." The institution has abandoned this. In many of the institutions the improvements have been marked. The shock of the City's inspection and its follow-up have already galvanized the institutions into doing some things recommended and urged by the State Board for years, some things contemplated by the institution managers themselves, but long delayed, and some things required by the City.

(2) It sent the reports to the State Board. The board began to increase the number of inspections in both public and private institutions in New York City and to withhold certificates of compliance with its rules more freely than it ever had and for reasons which it had been ignoring for years, the President, as I have said, admitting that the board did this "in the desire to strengthen our case".

(3) It ceased commitments to 15 of the 24 institutions, and at the close of the hearings it had not resumed in 8 cases. Ceasing to commit was a spur to institution improvements because the per capita cost of maintenance goes up as the number of inmates goes down.

(4) It refused in some cases to certify the monthly bills of the institution against the City. This served the same purpose.

(5) It resorted to publicity in the newspapers. In Mr. Doherty's address before the Baltimore Conference in May, 1915, some of the re-

ports containing serious criticisms of institutions were made public. In that address, Mr. Doherty apportioned the blame for conditions among the boards of managers, the Department of Public Charities and the State Board of Charities.

(6) It issued a document consisting of standards for inspectors, called "The Questionnaire".

The Commissioner of Public Charities made liberal exercise of his power to refuse to commit to many of the institutions on the controverted list, acting in some cases on the reports of the State Board inspectors in 1914 and before making any independent investigation. This brought, in one or more cases, the statement from the institution heads that the children would be marched to the City Hall steps. Institutions, the better institutions particularly, were crowded. Children had to be committed somewhere, and to institutions of the religious faith of the parents. This may be regarded as the explanation of the failure of the department to call upon the comptroller to suspend the monthly per capita payments to the institutions. Sudden and drastic action leading to the closing of institutions would have been, under the circumstances, inexpedient and unwise. The treatment that was necessary should have been carried on over a period of years. A judicious, but vigorous, exercise of the power of the State Board to withhold certificates of compliance would not, as I have said, have resulted in the closing of institutions. The remedy that has been needed and has not been applied was that possessed by the State Board under its constitutional rule-making power, which for many years had been so little used that in 1914 it almost might be said to have fallen into a state of atrophy.

Value of City's Investigation.

It is my view that, in the last analysis, the City's investigation of 1914 and 1915, over and above all the resentments that have been aroused, has been of incalculable value to the children in the institutions. Evidences of this multiply. The State Board of Charities has increased its activities. It inspects more frequently. The reports are more complete. The ratings are more nearly commensurate with the findings. Certificates are more frequently withheld. Important improvements have been made in the institutions to such extent that the State Board is issuing its certificates of compliance to all the institutions on the controverted list, with at least tacit approval of the City. The Department of Public Charities has organized its first Bureau for Child Placing. The Associa-

tion of Catholic Charities has announced that it would "appoint an auxiliary to follow the inspections of the authorities in the attacked institutions". At a great meeting on April 30 last, representatives of all the great religious faiths joined in advancing the cause of the Big Brother and Big Sister societies in the institutions. Committees of representative citizens have been formed to bring about a better understanding between the institutions and the authorities, State and City, upon the subject of inspection.

State Board Must Adopt and Enforce Reasonable and Enlightened Standards.

But it is also my view, the reasons for which I have already endeavored to set forth, that under the constitution and the laws, we may look, and must continue to look, to the State Board of Charities, with its rule-making power, to establish and enforce reasonable and enlightened standards for the private institutions. Its duty of inspection and supervision is primary, is superior. It *must* inspect. The City *may*. If institutions with their self-perpetuating boards of managers are left without a spur, it is not surprising that that they follow the easy path, that they are content with the old methods, content to furnish perhaps the best of bodily care and fail to grapple with the more difficult questions of education and training.

What counsel called "the supervising inspection" of the State Board has failed—not utterly but so palpably that a new kind of inspection is demanded. It will cost money, but that is a difficulty and not an insuperable objection.

The Tasks of the State Board, the Institutions and the City Respectively.

The persistent explanation or excuse of the State Board throughout the inquiry for failure to enforce upon the institutions full and reasonably prompt observation of its own rules, much less any advance in standards, particularly to such point as is desired by the City administration, was that the institutions had not the money, that the City will not give it, and that to close the institutions would leave the City in a quandary. First, I find no case where withholding a certificate has actually closed an institution door that has ever been open. If there is such case, there is no mention of it in this voluminous record. What happens is that the improvements are made or promised and the certificate issues. Next, in case the State Board enforces its standards as it should, the City simply *must* add enough to the other income of the institution to enable it to comply with the rules of the State Board or else see the institution refuse City charges. The point is that the State Board of Charities should zealously perform its own task, make desirable advances in standards by

amending its rules and then construe and enforce them, remitting to the City and the institutions the remainder of the problem. Many of the improvements suggested both by the State Board and the City Committee could obviously be made with little, if any, additional expense. It certainly is not the business of the State Board to find money or children for the private institutions, or to find institutional homes for the city's dependent children. The State of New York has deliberately thrown the care of dependent children upon the cities. If the City chooses to aid private institutions, and thus escape an almost prohibitive expenditure for public institutions or the adoption of the policy of exclusive placing-out, which would be unwise and impractical, then the State Board must fix the standards and the City and the institutions must pay the price. The statement was made by counsel for the State Board that that board had no function to determine upon how high a plane the institutions should be run. I differ. This is precisely what the function of the State Board is. The board itself recognized it momentarily in the letter of Secretary Hebberd to Comptroller Prendergast in 1912:

> "In the instances where the per capita cost approximates the amount paid by the City, the Board's reports of inspection show that a desirable standardizing of the dietary and the scholastic education of the inmates would as a rule cause a considerable increase in their cost of maintenance, as well as in that of many of the other institutions also. This standardizing is at present impossible owing to a lack of means, but is something which the Board must undertake to bring about in the *relatively near future.*"

This "relatively near future" is still to come.

The City's Share of the Cost.

As I have said, this letter apparently had much to do in obtaining from the City higher per capita payments to the institutions. These are now $2.50 per week in the congregate institution and $3.00 in the cottage institution. These payments evidently should be more, although it is conceded that the City should never pay all the cost of maintenance. This would defeat the whole notion back of the "New York system". The additional sum of $15 per annum per capita is paid for education to such institutions as furnish it within their own doors. It is estimated that it costs the City $40.24 per annum per capita in the public elementary day schools for instruction and educational supplies only.

Scramble for children."

In view of the fact that a large number of children in an institution usually results in a lower per capita cost, there is no doubt that managers of some of the poorer institutions did not discourage commitments. On the other hand, there is nothing before me that would justify the statement that "there is a scramble for children".

Cost of Certain Improvements.

Counsel for the State Board estimates that it would cost the City each year from two to three million dollars more per annum than it now does to care for these dependent children in the institutions on the lines adopted at the institutions of which Dr. Reeder and Dr. Bernstein are superintendents. Even if this be true, I repeat that it is not the real concern of the State Board. While the change from congregate to cottage institutions, repairs to plant, improved bathing facilities and dining room service are important and desirable, it is apparent to me that the real needs of many of the institutions are good and sufficient food, adequate equipment for indoor and outdoor play, and efficient scholastic, vocational and industrial training. Dr. Bernstein estimated that adequate social and recreational facilities and equipment for vocational training and competent instructors would cost $1,000 initial outlay and $800 per annum thereafter in an institution of 200 children, and $2,400 initial outlay and $1,680 per annum thereafter in an institution of 450 children. These sums are certainly not out of reach for many of the institutions.

Publicity essential.

I do not share the aversion with which the State Board shrinks from publicity as a method of enforcement of its recommendations to end abuses. I cannot comprehend it. Publicity, in the relation between a state department and a private institution holding any religious faith is essential. This is one of the few instances where church and state come into contact. In this country, there may not be permitted to grow up any subservience of the state to the church. I concur in the view that the state must always dominate the partnership between it and the private institutions. It has been too long a silent partner—as represented by the City, this has been deliberate; as represented by the State Board, it seems to be a result of contentment with an inspection force utterly inadequate as to numbers, a system of follow-up or enforcement that failed to embrace features that would have promptly energized the institutions and their friends into the making of essential improvements, and of a timidity in advancing its rules and standards for care and training to meet its own ideals, fearing it was too much to ask of the institu-

tion and that the City would be placed in a quandary, instead of fulfilling its own mission to the best of its ability and to the extent of its power confident that a way would be found by the others. As was said in the report of the White House Conference:

> "Child caring agencies, whether supported by public or private funds, should by all legitimate means press for adequate financial support. Inferior methods should never be accepted by reason of lack of funds without continuing protest. Cheap care of children is ultimately enormously expensive, and is unworthy of a strong community."

State Board and Hospitals and Dispensaries in New York City.

On September 30, 1915, the State Board of Charities was supervising in the state of New York 185 hospitals and 186 dispensaries. Of the latter, 130 were in New York City. The widespread use of the dispensaries is shown in the fact that in 1915 there were 4,864,699 treatments given therein, of which all but 213,582 were in New York City. It is obvious that the dispensary has an intimate place in the life of the poor.

The State Board has the power to license dispensaries, which means the power to fix the location thereof, the power to make rules and regulations for their operation, the power to visit, inspect and supervise them, and the power to revoke their licenses. It has never revoked such a license and Dr. Smith, chairman of the board's committee on dispensaries, thought the dispensaries were generally regarded with favor by the medical profession and that for the board to enforce its rules would be too severe and radical and more likely to do harm than good, so it never attempts it.

The testimony of Dr. Goldwater, former Commissioner of Public Health in New York City, and of Dr. Emerson, the present Commissioner, discloses that the State Board has signally failed to adopt adequate standards for the inspection of hospitals and dispensaries, and that its inspectors' reports are superficial; that they deal carefully and intelligently, as a rule, with the plant, but are blind to the more technical requirements that make for medical efficiency. As it is, one physician in a dispensary may serve fifty patients in an hour and there would be no condemnation of the practice. Medical men would be preferable

for this class of inspection, but the laymen now in the employ of the board could be trained, and should be trained, by the board, to perform this work satisfactorily. The difficulty is that they are without adequate standards. The State Board has not only failed to provide such standards of its own, but has neglected to avail itself of the standards prepared by the Association of Clinics, a voluntary organization of the better dispensaries, established at the suggestion of Dr. Goldwater.

The State Board failed to ascertain that there are no isolation rooms for contagious cases coming to the dispensary. The Health Commissioner of New York received a State Board report on the Willard Parker Hospital for Contagious Diseases. It described the plant but showed a lack of knowledge of the special problems relating to the management of contagious hospitals. The Secretary of the State Board was asked for something better, but it did not come. The State Board has allowed too many dispensaries in a given locality, which suggests the absence of a comprehensive program in acting on licenses.

The State Board has ample power to place the hospitals and dispensaries on the right plane, but it has lacked imagination, has acted, as usual, on the theory that not all can be done in a day and that the institutions are doing the best they can with the means at hand and that the board ought not to create standards to maintain which means the outlay of large sums. Yet Dr. Goldwater showed that the heads of hospitals and dispensaries are extremely sensitive to State Board ratings and would repsond instantly to higher standards, and that money would be readily obtainable if the State Board would condemn the dispensaries doing poor work and point out that it was due, at least in part, to inadequate means.

Washington Heights Hospital.

Commissioner Kingsbury's advisory committee devoted its investigation of 1914 and 1915 to child-caring institutions and inspected only one private hospital, the Washington Heights Hospital, in December, 1915. The inspectors of the State Board had visited it and reported in 1912, 1913, 1914, and twice in 1915. The State Board had withheld the certificate of compliance with its rules in 1912, in 1915, and again in 1916. The reports, both of the State Board and of the City, revealed such conditions in the hospital that it is plain all municipal aid should have been withheld from it. For failure to cancel the ambulance service, the City is to blame. For failure to issue a certificate

of non-compliance with the rules of the State Board, or to withhold and continue to withhold the certificate of compliance or to apply for a court order, the State Board is to blame. Counsel for the State Board concedes that the issuance of the certificate raised a close question. It is a question that was wrongly decided. It must be remembered that I am writing as to conditions as described in the evidence received by me.

Infant Mortality in Private Foundling or Infant Asylums.

Foundling asylums were organized primarily to reduce excessive infant mortality due to illegitimacy and abandonment of infants. That these asylums must be continued there is no doubt. The asylum will be needed for the defective, the syphilitic, and sometimes for the actually sick infant. It is not likely that suitable foster homes can be found for all that should be placed-out. The asylum serves as a known place of refuge.

But there is likewise no doubt that the mortality rate among infants under two years of age in asylums is fearfully out of proportion to the rate among such children in the state at large. The figures show that in the state at large the rate for 1909-1913 was 87.4 per thousand, and that in eleven large infant asylums in the state it was 422.5 per thousand, or approximately five times that in the state at large. After all allowance is made for the poor condition of the babies upon admission to institutions, it is still evident that to keep an infant under two years of age in an institution is to write the death rate in large figures. This is demonstrated by considering the rate among "born in" babies, or those born in the asylum with mothers remaining with them at least for a time. These babies therefore get a good start, as is shown in the low death rate during the first month, and yet 48 per cent. died before the year was out.

In 1914, in New York City where it was found that foster mothers would take only the well infants from the asylums for boarding-out, an experiment was made by the City Department of Health in connection with an outside agency. The experiment was with 75 babies of the type in which the mortality rate had been 100 per cent. These babies were taken from one of the foundling asylums and placed out in foster homes under the general supervision of one nurse, with emergency attention from the doctor and nurse attached to the nearest milk station. Of these 75 babies 39 died and 36 lived, a mortality rate of 52 per cent. as against the almost inevitable 100 per cent. had they remained in the asylum.

It has been said that the American idea of caring for these babies is to put them into an institution, with little or no attempt to keep mother and child together. Figures show very plainly how important it is to keep mother and child together. In 1913, 1738 babies under one year were admitted into one of the foundling asylums in New York City. Of these there died within the year 48 per cent. of the "born in," 45 per cent. of those "committed" by the City Department of Charities, 38 per cent. of the "foundlings" or those abandoned in a deserted spot, 59 per cent. of the "surrendered," or those abandoned by their mothers on arrival at the asylum, and only 27 per cent. of the "accepted," those with whom the mothers remained.

A plan for state supervision of these infants by the State Board of Charities has been suggested by the Speedwell Country Homes Society. In substance, it is for the city to support a series of carefully regulated units for the intensive care of dependent infants boarded out in homes. The plan is drawn on the lines of family life with individual supervision of a doctor and nurse never to lose sight of the case. The unit is a definite suburban locality. The plan bears no analogy to the discredited system of baby farming. The cost is $1.15 per child per day, as against an average daily per capita cost in four hospitals in New York City, dealing principally with infants and little children of $1.80. The cost of caring for each of the babies that I have said were taken from one of the infant asylums and placed out by the City Department of Health was 62 cents per day. The City contributes to that asylum 55 cents per day for each baby committed and remits taxation.

It is true that the asylums place-out large numbers of infants in permanent and in boarding homes, sometimes to be nursed and sometimes to be bottle-fed. These babies go to the remotest corners of the United States. There is no adequate inspection. There is no definite information as to mortality. And yet, New York City gave to one foundling asylum in the year 1913 the sum of $26,162 to recompense it for supervision of these placed-out infants.

The plan of the Speedwell Society has been commended by Dr. Smith, member of the State Board, who went so far as to say that institutions for infants are unnecessary and that institutional care means neglect of the special wants and peculiarities of each child. But I find no comprehensive consideration by the State Board itself of the subject of infant mortality in institutions throughout the state. It certainly has

not devised any plan designed to reduce the number of surrenders of infants to asylums by mothers who could be aided to care for their children in their own homes. In 1905, a special committee of the board made a report in which it confirmed the duty of the State Board to improve the work of these infant asylums as far as practicable.

Consideration of methods to reduce infant mortality in private foundling asylums throughout the state will be one of the functions of the new Bureau for Dependent Children, in case my recommendation to establish such bureau in the State Board of Charities is adopted.

I consider it my duty to say that the New York City Department of Public Charities has a great duty to perform in this field. From the evidence submitted to me I have gained the distinct impression that complete utilization of the resources of the City would lead to a reduction in the number of commitments of infants, and that much can be done that is not being done toward keeping mothers and babies together; that the standards for boarding homes are incomplete; and that the City Department is without sufficient information to enable it to state how many of the "committed" babies are kept in the institution and how many are placed-out, and what is the mortality rate of each class.

CONCLUSIONS.

Private Institutions in New York City.

The conclusions I have reached as to the charges of the Department of Public Charities of the City of New York against the State Board of Charities, and as to such changes in the law and administrative procedure as seem to me desirable with respect to the supervision of the private institutions, are set forth in the immediately preceding pages under the headings "State Board and Private Institutions for Children in New York City," "State Board and Hospitals and Dispensaries in New York City," and "Infant Mortality in Private Foundling or Infant Asylums," and need not be repeated here.

Specific recommendations relating to supervision of private institutions will be found under the heading "Recommendations" at the end of this report.

A New Bureau for Dependent Children.

It is evident that the State Board of Charities as now organized is unable to give that intensive special and constant consideration to this great problem that the welfare of society demands. The imperative need of an increase in the inspection staff of the board, the development of new standards of child care in the institutions, the promotion of placing-out some classes of children in family homes, the creation and advancement of new measures of outdoor relief in order to preserve for the children their natural home, the persistent stimulation, by publicity and otherwise, of financial support for the institutions, both from the public treasury and the private benefactor—all suggest the creation within the board of a new Bureau for Dependent Children, whose chairman shall be a member of the board with special training in the care of children in private institutions and in foster homes. To this bureau would be assigned also special consideration of the private reformatories for delinquent children.

A more detailed reference to this bureau will be found under the heading "Recommendations".

Extension of the Supervision of the State Board of Charities Over All Charitable Institutions, Whether or Not in Receipt of Public Aid.

I have pointed out the disaster that fell upon the State Board and the public in 1900, arising out of the interpretation which the Court of Appeals felt impelled to give to the charities section of the constitution. I refer to the ruling of the court that such charitable institutions as must submit, under the constitution, to the visitation of the State Board, are those that in some form or to some extent receive public moneys for the support and maintenance of indigent persons. With all respect, I cannot believe that this was the intention of the framers of the constitution. An inspection of the minutes of the debates at the last constitutional convention shows that I am supported in this view by at least one distinguished leader in both the constitutional conventions of 1894 and 1915, the Hon. Louis Marshall. It is plain that the effect of this decision has been to place the wrong emphasis on the purpose of visitation and inspection, to view it as a means toward prevention of waste in expenditure of public money and not for the protection of a defenseless human being against abuse or neglect.

A recent investigation shows that there are in New York City alone 600 private institutions ministering to dependent persons not now inspected by the State Board, that should be and would be if it had not been for this judicial interpretation of the constitution.

It is admitted by those who are satisfied with the existing interpretation upon the visitorial power of the State Board that the legislature may constitutionally provide such other method of supervision as to it may seem appropriate, and various suggestions have been made, such as the imposition of the duty of visitation upon the attorney-general; but it is plain to me that the only appropriate state body for the inspection of private institutions, not in receipt of public aid, is the same body that inspects private institutions that are in receipt of public aid. Contemporaneous inspection of one set of institutions by one state body with one staff of inspectors, and of the other set of institutions by another state body with another staff of inspectors, would be a species of administrative folly that would not long be tolerated.

Pending the adoption of a constitution that will make indubitably clear what was already supposed to be clear, I recommend executive approval of any wise, constitutional legislation that will tend to extend

the supervision of the State Board of Charities over the class of institutions to which I have referred; for example, by requiring written reports to the State Board from time to time, so that at least the number of inmates may be known; or by permitting the visitation and inspection of charitable institutions and societies making public appeals for funds. The constitutionality of even such legislation may be doubted, but it should be tried out. A private charity is a public trust and should be amenable to reasonable state supervision.

The State Board of Charities and the Reformatories for Adult Women.

In view of the constitutional provisions to the effect that the reformatories for the confinement of adult males convicted of felony shall be subject to the visitation of the State Commission of Prisons, and that the other reformatories shall be subject to the visitation of the State Board of Charities, there cannot, of course, be a different assignment by legislative enactment. I think, however, that I should call attention to the fact that the predominant view in the record before me is that prisons generally should partake more of the nature of reformatory institutions; that in time many of the distinctions between penal institutions that are called prisons and penal institutions that are called reformatories will disappear; for example, that the institution at Great Meadow called a prison is as much a reformatory as the institution at Elmira, called a reformatory; that there is now no logical reason why, in this state, reformatories for adult males convicted of felony should be within the prison group, subject to the visitation of the Prison Commission, and reformatories for adult females, convicted of felony, should be within the charitable group and subject to the visitation of the State Board of Charities. If these reformatories for adult women should eventually find their way into the prison group, which perhaps is the more logical, the local boards of managers for such reformatories should be retained, with power to select or nominate local superintendents.

State Care for Adult Female Delinquents.

All adult male delinquents or violators of the penal law are cared for in public institutions. The same provision should be made for adult female delinquents who have committed infractions of the penal law

of the state. There are two state institutions for such women, the New York State Reformatory for Women at Bedford Hills and the Western House of Refuge for Women at Albion. There are several private institutions to which such women are committed by the courts. None of them possesses such facilities for scholastic, industrial and vocational training and for farm and garden work, most desirable for this class, as are afforded at the state institutions. The state institutions are constructed on the cottage plan, and the private institutions are all of the congregate type, in which it is next to impossible to classify and segregate the different classes of inmates. The most scrupulous care is observed at the state institutions to provide religious training and observances to fulfil the desires of those of the several religious faiths. I recommend the repeal of the laws which authorize commitments of such offenders to private institutions. The State Board of Charities, in accord with this policy, refuses to approve the incorporation of new institutions, or extensions of corporate rights of existing institutions, of this character.

A New Institution for Defective Delinquents.

I join in the recommendation of the State Board of Charities and of the recent special Commission to Investigate Provision for the Mentally Deficient, of which Mr. Hebberd was the chairman, that the state shall at once provide a new institution for the care and treatment of the deficient delinquent. There is now no institution of this kind in this state. The defective is a constant menace to the discipline and training in the reformatories, and the delinquent furnishes a similar problem in the institutions for the feeble-minded. Massachusetts has provided that defective delinquents shall be cared for in "departments for defective delinquents." The board of managers of the New York State Training School for Girls at Hudson, in their last annual report, make clear that the existing situation is serious. They state:

> "The feeble-minded girl is still a grave problem to which we give much particular attention. In fact, the School has been forced to continue a large amount of clearing-house work, which divides the attention that otherwise would come wholly to the normal girls, for whom the School is established. * * * The care of this subnormal class should be the work of another institution,

and the plan for the State to establish institutions suited to such custodial work, has the earnest approval of the officials of this School, who have been obliged to study the mentality of the girls committed here. * * * It is also very important in this connection to note that this School has actually become at the present time *both a School and a Clearing House,* although equipped and officered only for a *School.* It is impossible to continue this pace of work and double duty with only the present staff. It is beyond human endurance. Neither side of the work can be satisfactorily and completely accomplished, and the less insistent, namely the School, is likely to suffer more for several reasons—one of which is that the type of officer suited to School work is not necessarily fitted for or desirous of doing Clearing House work."

This new institution, if and when authorized, should be included with the institutions for the feeble-minded as within the special purview of the new Bureau of Mental Deficiency which I suggest.

A New Bureau for Mental Deficiency.

Mental Deficiency the Greatest Social Problem.

Mental deficiency is to-day perhaps the greatest social problem that confronts the state. It will not be expected that in this report there shall be found an extended analysis of the social consequences of mental deficiency. It should be said, however, that perhaps 20 to 30 per cent. of the inmates in correctional institutions in New York are mentally deficient; that a large proportion of prostitutes in hospitals and institutions is mentally deficient; that a large proportion of adult criminals, how large is not known, is mentally deficient; that the discipline of all institutions wherein the defective mingles with the deficient and the dependent is thereby weakened and made difficult; that the orderly processes of education in the public schools are affected by the presence of defectives; that the courts, unequipped with an adequate system of clearing houses and testing bureaus, are unable to administer justice and necessarily make improvident and unlawful commitments; that criminality and dependency might be lessened if adequate attention were given to mental deficiency in children, which can be detected at an early age; that mental deficiency underlies many cases of alcoholism and addiction to drugs; that the presence in a community of the mentally defective,

peculiarly lacking in sex control, is a source of widespread specific disease and of moral contamination and reproduction in kind. A learned committee of the National Psychiatric Society, Dr. Thomas W. Salmon, Dr. L. Pierce Clark and Dr. Charles L. Dana, rendered a report to the society in 1915 which fully substantiates the foregoing. Dismay is aroused by the statement of Dr. Walter E. Fernald, of Massachusetts, that "there are reasons for believing that feeble-mindedness is on the increase, that it has leaped its barriers." He also points out that "the only feeble-minded persons who now receive any official consideration are those who have already become dependent or delinquent, many of whom have already become parents. We lock the barn door after the horse is stolen."

New York's Rank in Providing for Mental Defectives.

There is an impression, which has received official support, that the state of New York leads the states of the Union in providing institutional care for mental defectives as distinguished from the insane. This is not true. At no time during the last fifteen years has New York stood first. Massachusetts occupies this position and is the state that comes nearest to making provision for all the mentally defective needing institutional care, or even for those for whom admission is sought. On the figures for January 1, 1916, New York was 13th in its provision for the feeble-minded, and 5th in its provision for epileptics. If the state of New York is to receive credit for what is not its due, and the capacity of the New York City institution on Randall's Island is added to the state quota, New York would still rank 5th in its care for the feeble-minded.

The National Commission for Mental Hygiene has prepared exhibits for me which show that the provision by the state of New York for mental defectives grew more slowly during the period between 1910 and 1915 than it did between 1905 and 1910. The rate of increase in the ratio that the number of mental defectives provided for throughout the United States bears to the population was about the same from 1910 to 1916 as it was from 1904 to 1910. The provision in the state of New York, however, increased 42 per cent. from 1904 to 1910, and only 29 per cent. from 1910 to 1916. The President of the State Board of Charities testified before me that the number of feeble-minded in New York is growing more rapidly than is the capacity of the institutions. A sharp contrast to this is found in the fact that the state of New York leads all the states in provision for the insane.

The Number of Mental Defectives.

The magnitude of the problem of mental deficiency will perhaps be more generally appreciated when it is understood that there are approxi-

mately as many mental defectives in the state, including the idiot, the feeble-minded and the moron, as there are insane that are receiving state hospital care. There are approximately 34,000 insane under care in state hospitals. The figures as to the mentally defective vary, but it is reasonably accurate to say that there are 5,000, excluding epileptics, in state and New York City institutions, all of which are filled to present capacity; 6,000 in institutions where they should not be, such as hospitals and almshouses, and 22,000 at large; a total of 33,000. It has been said that there are 33,000 who are receiving or who should receive custodial care, and an untold number more who should be registered and under observation.

The State Board and Mental Deficiency.

The State Board of Charities is the only body in the state upon which, under the constitution and the laws, responsibility for state supervision of the mentally defective in institutions has been imposed, and to which the people may turn for leadership in formulating a broad, constructive policy, not only for commensurate institutional development, but for adequate supervision in the community. Fifty per cent. of the inmates in state institutions supervised by the State Board are feeble-minded or epileptic. I have already pointed out the singular views of the State Board with respect to important institutional problems, and its approval of an unwise and unfair geographical grouping of institutions for the feeble-minded. Furthermore, the proportion of New York City inmates in state institutions for mental defectives is 36.2 per cent.; yet it pays approximately 70 per cent. of the taxation for such purposes. The State Board has failed utterly, whatever may have been its efforts, to obtain appropriations adequate to put New York above the 13th place among the states in provision for the mental defective, one consequence of which is that the mental defective is found in nearly all the almshouses of the state. One member of the State Board, a member of its committee on feeble-minded, seemed to hold the view that care should be taken by the board to discover if the feeble-minded were not being quartered on the state by the overseers of the poor instead of being cared for in the county institutions. Public sentiment years ago would not tolerate retention of the insane in county institutions.

The functions of the several state institutions for the feeble-minded are not clearly defined and their labors are not coördinated. The superintendents and boards of managers of these institutions fail to look to the State Board for leadership. Each pursues its own way with no

opportunity or responsibility for considering what would be best for the state at large. The recent law for the commitment and retention of the feeble-minded was passed without the aid of the State Board. No attempt has been made by the State Board, so far as I have been able to discover, to safeguard and supervise the feeble-minded in the community at large. The State Board, as at present constituted, is without a psychiatrist in its membership or a member who has had personal institutional experience with mental defectives. Moreover, it has many other varied and unrelated functions.

Reasons for a New and Independent Department for Supervision of the Feebleminded.

The reasons which actuated the special gubernatorial commission in 1872 in recommending the appointment of a Commissioner in Lunacy, and for the adoption of that recommendation, exist to-day for the creation of a special and independent department for the visitation and supervision of the feeble-minded in the institutions and in the community. This is, in substance, the view of a present member of the State Board's committee on feeble-minded. At first the Commissioner in Lunacy was an *ex officio* member of the State Board of Charities. He characterized his work as "a special office for a special field". The State Board retained its right of visitation, and in 1889 its committee on the insane recommended that the Commission in Lunacy consist of several members instead of one, on account of the extent of the service required.

There are to-day four states in the Union where the care of the insane is entrusted to members of commissions created for that purpose —California, Maryland, Massachusetts and New York, and in these states the care of the insane reaches its highest level. As might be expected, the best state supervision over the mental defective is found in those states, such as Massachusetts, in which it is vested in an expert lunacy board, dealing with problems closely related. But in New York, the care of the insane alone is a greater task than the care of all the delinquents, dependents and mental defectives in any other state. Moreover, the supervision of hospitals for the insane is primarily medical, that of institutions for feeble-minded primarily custodial, with an element of the educational.

I find that there is a demand from one end of the state to the other, both in and out of the institutions, for the creation of a new and independent department for the care of the feeble-minded, and that this demand is irrespective of any personnel of the State Board of Charities, however able that might be. This demand is based in the main on

the considerations I have recited, and is for a board consisting of experts in treating the special problem of mental deficiency, receiving salaries commensurate with the importance of the work and devoting themselves to that problem alone. The suggestion is made that a suitable board would consist of a psychiatrist, a general practitioner of medicine, a lawyer, a member skilled in the sciences and an educationist. Mr. Frank A. Vanderlip, chairman of the board of managers of Letchworth Village, testified:

> "I believe, therefore, *that a separate body,* composed of men equipped by training and experience to deal with this special group and who would direct their undivided attention to the development of a comprehensive plan for the care and treatment of the mentally deficient and *supervisory control* of State Institutions and work for the mentally deficient and epileptic could deal *more effectively* with this phase of the States' responsibility than the State Board of Charities, having the supervision of a large number of Charitable Institutions *differing widely in character of equipment and service,* however able *the personnel* of such a board."

The committee of the Psychiatric Society said in 1915:

> "It seemed to your Committee that the tasks of putting into operation a new and comprehensive law for dealing with mental deficiency, of developing the different types of institutions needed and of carrying out plans for securing adequate protection of the mentally defective in the community are so vastly important that they should be entrusted only to a Commission created especially for their performance and composed of the best qualified persons whom the State can secure. We are convinced that the administration of institutions for the mentally defective and of laws for their protection and commitment is not a proper function of the State Board of Charities, and that the care and commitment of epileptics should be a function of a board created to deal with mental deficiency."

I have already said that I believe that this new department should be established. I am aware that the proposal was placed before the last constitutional convention and that it was not acted upon; but I

should not, by reason of this, be deterred from expressing my own view that this department should be established and the hope that provision for it will be made in a future amendment to the constitution.

Question as to Constitutionality of a New Department.

The view has been expressed that the legislature may now create a new department for the supervision of institutions for the feeble-minded, and vest in it the power of visitation and inspection, retaining inviolate the visitational power of the State Board of Charities. With this view I do not agree. The visitational power of the State Board over institutions of this character, which have always been classed as charitable institutions, is exclusive, as I view it, and it follows that it is beyond legislative power to create another board with visitational power over the same institutions. Were it not, I should not favor the multiplication of supervision and division of responsibility that would follow such grant of power to another department.

Suggestion of a New Department without Power of Visitation.

The view has also been expressed that the legislature should now be asked to create a new board or commission, without the power of institutional visitation and inspection, which power must remain with the State Board, but with certain powers of administrative control over these institutions, and confer upon it certain duties with respect to registration and observation of the mental defective in the public schools and in private homes, and also the power to enable it to provide for a series of state clearing houses or laboratories in which there should be adequate tests to enable the courts and institutional heads to detect mental deficiency. But this again would serve to multiply administrative and supervising agencies, of which we have already seen too much and which I had hoped to find some way to end. Further, the new board could not serve efficiently or accomplish the purpose for which it was created without the visitorial right. While it would be unconstitutional to give the new board or commission visitorial power, it would render it in large measure futile not to do so. Indeed, it was admitted before the last constitutional convention by advocates of the new department that a constitutional amendment was essential, and it was predicted that the legislature, in the light of experience, would not readily create a fresh instance of divided power.

Recommendation of a New Bureau within the State Board.

Until the constitution is so amended that this great and menacing problem of mental deficiency can be treated, as it should be, by the creation of a new and independent department, with full powers, the State Board of Charities should be so reorganized that it will be able

to assume the requisite leadership. One member of the State Board should be a physician with special distinction and training in psychiatry, and he should be *ex officio* the chairman or executive head of a new bureau within the State Board, to be known as the "Bureau for Mental Deficiency", and equipped with an adequate expert staff. The chairman of the bureau should name, subject to the approval of the State Board, an unpaid advisory council of four or more, possessing the special qualifications to which reference has already been made Dr. Fernald of Massachusetts said:

> "This state supervision of the feeble-minded might be done successfully by some existing organization like a properly constituted state board of health, or state board of charities, or by a special board or official; but the responsible official should be a physician trained in psychiatry, with especial knowledge of all phases of mental deficiency and its many social expressions."

The first duty of this new Bureau for Mental Deficiency would be to acquaint the people of the state with the gravity of the problem. The English Royal Commission on the care and control of the feeble-minded, made up of some of the strongest men in the kingdom, considered the subject from 1904 to 1908. Its report and the Mental Deficiency Act of 1913, based on it, were regarded as laying deep the foundations upon which might be built an enlightened system of care and protection of the mental defective. The committee of the Psychiatric Society has utilized this report as the basis of suggestions for the general powers of a new central board. They may well suffice for such bureau as I have recommended. Some of the suggestions are: (1) To supervise the work performed by the local authorities, who should be the sanitary supervisors, an agency created under the recent reorganization of the health service of the state and which now cares for the insane pending commitment. (2) Supervise public institutions for the mental defective and epileptic. (3) Supervise the enforcement of the provisions of law relating to commitment and registration of the mental defective and his protection in the community. (4) License and inspect private institutions for the mental defective and epileptic. (5) Conduct and encourage research into the medical, social and economic relations of mental deficiency. (6) Devise plans for the development of state care of the mental defective and epileptic. (7) Present to the legislature estimates for appropriations

therefor. (8) Establish state institutions for the continued care of committed cases and state intermediate institutions for the reception, study and classification of new cases. (9) Provide for mental examination of all inmates in penal and juvenile delinquent institutions and for transfers to suitable institutions.

This new bureau should, and doubtless would, consider the methodology of tests for the feeble-minded now in course of development in the Laboratory of Mental Hygiene at Bedford, and the work at Waverly House of the New York Probation and Protective Association.

If this bureau does acquaint the people of the state with the gravity of the problem of mental deficiency, which, as I have said at the outset, is perhaps the greatest social problem that confronts the state, I do not believe that the solution will fail for the reason that it will necessitate the outlay of a large sum of money. As Dr. Fernald said:

> "The expense of this plan of centralized supervision and control of the feeble-minded may seem to be an objection, but it is not a valid one, for States like Massachusetts, New York or Ohio, for instance, are now really wasting vast sums of money annually in haphazard methods of temporizing with the social consequences of mental defect, instead of dealing with the feeble-mindedness itself. We are now pouring water on the smoke instead of on the fire."

A Reorganization of the State Charitable System.

To construct a system of administration for the institutional service of the state on a clean slate would be one task; to devise a comprehensive plan of reorganization, in view of conditions as they are, is quite another. In the one case, it would be what is the ideal; in the other, what under the circumstances is the best that can be done. Executive recommendation for legislative enactment is, of course, subject to the limitations of the constitution of 1894, which, whatever else may be said of it, needs reconstruction in its provisions relating to charities and corrections. Then again, the established order may not lightly be disregarded when it is the common view that under it a great work has been done.

Consideration of the three groups of institutional service,—the Hospitals for the Insane, the Prisons and the Charitable Institutions.

I realize that no plan of reorganization for the administration of any one of the three great groups of institutional service should be suggested without consideration of the schemes of administration that obtain

in the others and without consideration of the obvious relation that each group bears to the other. I have endeavored to give such consideration. If the state of New York stood to-day at the threshold, for the first time looking out upon this administrative field, it might be desirable to formulate a plan under which there should be one supreme administrator, responsible only to the executive, serving as a coördinating agency and presiding over the three or more units of the institutional service, the charities, prisons, hospitals, and perhaps other groups. It is a big field which requires for its support about one-third of the revenues of the state. It is possible that such plan, even now in the face of all that has grown up, should receive general consideration. I have considered it, but there are several reasons why I cannot favor it. *First,* I cannot construe the terms of my commission to cover an investigation of the management and affairs of the State Hospital Commission, which supervises the hospitals for the insane, or of the State Superintendent of Prisons and the Prison Commission, to whom the prisons are assigned. *Secondly,* I have not made such investigation, and without it I could not make recommendations vitally and fundamentally affecting the systems of organization in those groups without, perhaps, raising a question as to whether I had sufficient foundation for such recommendations as I shall make with respect to the group of charitable institutions. *Thirdly,* I have evolved no plan and seen no plan for central supervision or control over all institutional groups that does not seem to me to call for plain violation of the constitution. *Fourthly,* I do not see clearly sufficient merit in such plan to justify an upheaval in the present admirable administration of the hospitals for the insane that would almost certainly follow if such plan were carried to its logical end. *Finally,* I do not find any analogy for it in other states where good administrative systems are in force. In New York there are 43 state institutions which would be brought within the domain of such central regulation and control as would be provided. I am told that the largest number of institutions grouped under any system of central control in the United States is 15. The largest group under any merely supervisory system is 27. The average size of groups now under systems of centralized control is 10.

There is no doubt that there should be a statutory requirement for periodic conferences among the three constitutional groups, for the purpose of considering what, if anything, could advantageously be bought by joint purchase for all institutions. This conference should also be

charged with the promotion of such uniformity in salary schedules as may be practicable, and I so recommend, although the importance of this has been lessened by the creation of the new budget-agency and will be minimized in case the proposals of Senator Horton's committee, to which I have referred, become law.

State Board Must be Re-organized.

Limiting this report to a consideration of the charitable group, the state department in which interest chiefly centers is the State Board of Charities. I am convinced that there must be a radical change in the system of organization of that board. With the personnel I am not concerned, as I have already said. My conviction that there must be a change is based on the results of this investigation, a part of which I have set forth in this report. The State Board of Charities cannot be abolished. The constitution guarantees it. I would not recommend that it be abolished if it could be. It must remain and it should be reorganized.

The State Board of Charities lacks power; it lacks vision; it lacks drive. It does not know its real job. It is not doing its real job. It is ailing and it shows no sign that it knows what is the matter with it.

One way to reorganize would be to abolish the office of the Fiscal Supervisor and all the unnecessary minor boards and commissions and create a new executive department and vest and consolidate in it all the administrative powers that should be preserved, leaving the State Board on the side with its visitorial power. In my judgment this would make a bad matter worse. This, in substance, was the proposal in certain legislative bills introduced in 1915, providing for a state commissioner of charities. This would be going still further in pursuit of the policy that established the department of the Fiscal Supervisor in 1902 which, as I have pointed out, did so much to weaken the State Board. In those states where such boards of control have been built up alongside of supervisory state boards of charities, the latter, sooner or later, loose their prestige and are often abolished.

A better way, I believe, is to convert a weak board into a strong board, a board with inadequate power into a board with real power; to create a board that will command respect and exercise all the power that it should in order to develop the highest type of charitable service in and out of the institutions, public and private; a board on which public spirited men will delight to serve because they know it can be made efficient. I do not mean a board of control such as exists in many

states, and usually not with advantage, but a strong, authoritative, advisory and supervisory board, with sufficient administrative power to carry it through, and at the same time to cut out the vicious circle of interference by other administrators. In no sense could this become a board of control without the elimination of the local boards of managers. This I should never recommend. Theirs is the primary and fundamental administrative control. On the whole, this local control is discharged with singular fidelity. The abolition of local boards of managers in the hospitals for the insane in 1902 was followed by their restoration in 1905. The only attempt to abolish local boards in the charitable institutions failed. These boards exist in those states which possess the best institutional service. Local boards are at times extravagant, but there is ample check for this in the plan which I propose.

Attitude of State Board toward Administrative Powers and Duties.

The attitude of the members of the State Board toward an increase in power through the imposition of certain administrative duties is singularly inconsistent. When the proposition was stated generally to them, almost without exception they protested that they did not want powers of administration, that the board is historically a board of visitation, and that this has come to be a principle which must be kept inviolate. The reason was that the moment visitation became united with any substantial degree of control, visitation ceased to be independent and fearless; in other words, that an inspector could not be expected to condemn his own management. This is plausible and, in a sense, is legitimate criticism or fair argument. The answer, however, in the first place is that there is no proposal that the State Board shall manage the institutions. The management will remain where it is, in the local boards of managers and the superintendents appointed by and responsible to them. Another answer is that it would not work out that way. For example, take the supervision of the hospitals for the insane by the State Hospital Commission. The legislature has granted to it all the powers of supervisory control, and more, over the hospitals, than I would recommend for the State Board of Charities in respect of state charitable institutions, and I have yet to hear that the Hospital Commission has failed to visit and inspect and check up the hospitals as required.

When the members of the State Board were interrogated specifically as to extra-visitorial powers, they realized that they had possessed some for years and that a grant of more might be advisable. The State Board had the more important power to approve or disapprove building plans

for state institutions. In 1902 it was taken away. The Poor Law provides that the State Board shall "administer the laws providing for the care, support and removal of State and alien poor," and in pursuance thereof the State Board contracts with county supervisors for the use of certain almshouses for the State poor. The Secretary said that prior to the day of the Fiscal Supervisor, the State Board had, to some extent, controlled the financial affairs of the institutions. The President said "Many powers of executive character have been entrusted to it," and enumerated them. The new law providing for boards of child welfare, arising out of the movement in favor of widowed mothers' pensions, imposes upon the State Board certain duties unmistakably administrative and executive. Consider the power of the State Board over the dispensaries. It may license them, make rules and regulations for their administration, inspect them and revoke their licenses. Is not this supervisory control? The courts have so characterized it. The attorney-general has spoken of the board's power as "directory and supervisory."

So it is seen that while the State Board cries out against the amalgamation within it of visitorial and administrative supervision, and even calls it unconstitutional, it nevertheless possesses it. The difficulty is that it does not possess enough of it. The fact is that the duty of inspection cannot be fully and effectually separated from the duty of supervisory administration.

The State Board has never succeeded in its protests against the union of visitation and administrative power. In 1890, for example, it unavailingly importuned the legislature not to divest it of visitorial power over the hospitals for the insane, which it was then sharing with the State Lunacy Commission, making the familiar argument that, as the Commission enjoyed certain large administrative powers, there must be an independent visitorial power. And in 1894, the Constitutional Convention confirmed in the Hospital Commission its united powers of visitation and fiscal control.

Expert Opinion on Union of Visitation and Administrative Powers.

After analyzing the different kinds of state boards of charities in the several states, Dr. Salmon said: "A state board that has only inspecting power, no power of administration, speedily loses its influence."

The late Thomas M. Mulry, member of the State Board, said: "Authoritative supervision of charities is absolutely necessary."

Dr. Smith, of the State Board, expressed the desire that the State Board should be equipped with such power and duties as to make it

"a strong advisory board," and thought some administrative duties might increase the prestige of the board.

Mr. Wright, in his analysis to which I have already referred, said: "The successes and failures in New York, Indiana and Iowa seem to make it reasonably clear not only that a power of limited control and the function of giving advice should be combined, but also that such a combination is practicable and workable."

The President of the State Board expressed the view that: "The more important the work, the more care the governor will take in selection."

Professor Clark, of the University of Nebraska, who wrote in 1905 upon "State Supervision of Charities," considers that the "charities of Massachusetts are more completely organized than in any other State of the Union," and comments on the numerous important administrative powers possessed by the State Board of Charity of that state.

Mr. Kelso, the secretary of that board, is a strong advocate of centralizing policy-making powers in the State Board, and decentralizing administrative details among the several institution heads; but he points out the numerous important administrative powers of the Massachusetts board, such as the care of the state adult poor, the care and custody of 5,600 state minor wards in private homes, the approval of all plans for new buildings and the approval of institution estimates for the annual legislative maintenance appropriation. That board also analyzes each month all pay rolls and bills for supplies, furnishings and repairs, and all vouchers, and supervises joint purchasing.

I would give to the New York State Board of Charities the power to require submission to it in the first instance of all institutional requests for appropriations, whether for maintenance or otherwise, before submission thereof to the legislature or the executive or the new budget-agency provided in 1916, always reserving the right of any of these bodies to go directly to the institutions for budgetary information.

The Constitutionality of Adding Administrative Powers.

In the constitution is the express provision (Art. VIII, § 15) that: "The legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the constitution." The attorney-general advised Gov. Odell, in 1902, that legislation was constitutional which provided for the abolition of the local boards of managers in the hospitals for the insane and imposed all managerial power upon the

State Lunacy Commission. The constitutional provisions relating to the State Board of Charities and the State Lunacy Commission are identical. Such administrative powers as have been conferred upon the State Board since 1894, and such as I shall propose now to confer, are obviously not inconsistent with the power of visitation. They are supplemental thereto.

It hardly lies in the mouth of the State Board to contest the constitutionality of legislative grants of administrative or executive power in view of the fact that, according to the statement made in 1894 before the constitutional convention by Mr. Lauterbach, chairman of its charities committee, that the State Board had urged that it be made "simply a constitutional board to visit and inspect, and leaving all the rest to the legislature to be increased or diminished."

The Nature and Effect of Increase in Power.

The President of the State Board testified: "My idea would be to continue the board as it is, strengthen it where it is weak, restore to it the power to visit and inspect all institutions * * * but particularly those in which inmates are confined." I have said elsewhere that I favor such restoration of the power of the State Board to inspect all private institutions, whether in receipt of public aid or not, as may be constitutional. It is my purpose to suggest executive recommendation of increased legislative grants of power to strengthen it, but it is not my idea that the board should be continued as it is.

There should be consideration, *first,* as to the nature of such increase in power and its probable effect; and, *secondly,* the kind of State Board that is most likely to discharge well the obligations, new and old, that are imposed upon it.

First, as to the nature and effect of increase in power.

In 1907, the President of the State Board was writing on "The Necessary and Reasonable Powers of a State Board of Charities." He said:

> "The supervision of the finances of state charitable institutions was taken from the Comptroller's office and vested in a Fiscal Supervisor of State Charities in the year 1902. The State Constitution makes these institutions subject to the inspection and visitation of the Board, and this broad language would seem to imply supervision of all their operations, including those of a fiscal nature. No inspection is complete which does not take account of the financial transactions of an institution, and the present arrangement of a separate state department for fiscal supervision results only in unnecessary duplication and overlapping of

work and in divided responsibility. The financial supervision should also be centered in the State Board."

Fiscal Control including the Estimate System.

It is evident that the President of the State Board then believed that the office of the Fiscal Supervisor should be abolished and his supervision over fiscal affairs, including the revision of the quarterly estimates of the institutions, should be restored to the State Board, as the constitution makers intended. This apparently is not his view now, for he suggests that the fiscal power should go to the comptroller. But it is the present view of one of his colleagues on the board, who testified: "Financial supervision of the state charitable institutions would work better if it were in the control of the State Board than in a separate official." The other members of the State Board are lined up on this subject against the plainly preponderating weight of competent opinion. The Bureau of Municipal Research in an appraisal for the constitutional convention in 1915, set forth that: "A strong state board with a fiscal supervisor if necessary as one of its executive officers could be properly related to the local boards with whatever demarcation between supervision and control the legislature deemed wise, and the result would make for simplicity, directness and responsiveness in organization." In the same document, the point is made that if the State Board and Fiscal Supervisor are brought together, it would end duplication of inspection and conflicting advice on policies to be followed by the local boards. Professor Clark, of Nebraska, to whom I have referred, said one serious defect in the New York system could be met by giving the State Board the right of supervision over the Fiscal Supervisor. Dr. Thomas W. Salmon testified that, as the creation of the independent department of the Fiscal Supervisor weakened the State Board in 1902, the abolition of the department would strengthen the board in 1916.

One result of the separation of fiscal control from policy-making control in the state charitable institutions is the frequent rejection by the Fiscal Supervisor of an item in the estimate which may be the denial of a purchase recommended by the State Board, and that without the knowledge of either. A contrast to this is afforded in the departments of the Hospital Commission and Superintendent of Prisons, in both of which policy-making control and fiscal control are united. The figures show that the disallowances in the two latter departments are less than in the office of the Fiscal Supervisor.

The State Board called my attention to an address by Fred H. Wines, of Illinois, delivered before a National Conference of Charities and Corrections in 1890, in which he set forth the value of supervisory and advisory state boards of charities as against state boards of control. I note a significant passage in that address:

> "The moral power of the board has been very largely enforced by giving it control of the purse-strings of the institutions to the following extent: the State Board audits the accounts, which have already been audited by the local trustees; and if they are found incorrect or contrary to law, further payments from the State treasury are suspended until the question at issue is adjusted. It is, we think, to be desired that other similar boards in other States should have like power conferred upon them."

I utterly disapprove the suggestion made by so many members of the State Board, that the comptroller should be called upon to re-take the duty of the revision of institution estimates that he thankfully discarded in 1902 as properly belonging elsewhere, and the return of which he now opposes. In his report for 1903 he said:

> "The wisdom of transferring the matter of revision and approval of estimates of these institutions from a department, the responsible head of which could of necessity give but little personal attention to it, to a separate department, the head of which gives his whole attention to that particular work, and personally visits and inspects the institutions, has already been justified and will undoubtedly prove of great benefit to the State and to the institutions for which it cares."

And again in his report for 1914:

> "The only satisfactory check upon the expenditure of the State's funds can be made by the supervision and audit of an official who is not concerned in creating the appropriation or in expending it. A disinterested audit and approval of all obligations created against the State is an absolutely necessary safeguard of the public funds."

When the attention of the State Board members was called to the bad finance involved in asking an independent auditor to audit bills that

have accrued by reason of his having previously allowed them to accrue, they were inclined to desire time to consider. As the Deputy Fiscal Supervisor put it, it is the province of the comptroller to determine whether payments are authorized by law and are within the amount of the appropriation; it is not to determine whether the institutions are properly discharging their functional activities or whether proposed expenses are necessary.

Mr. Dennis McCarthy, who is the only person who has been both Fiscal Supervisor and a member of the State Board, testified that the best place to transfer the functions of the Fiscal Supervisor is where they can be discharged most economically, and that, he said, would be the State Board of Charities, which would need a new bureau with a man "at the head of it". Mr. Hervey's notion of an allotment on estimates is that it is the product of special administrative judgment, that the comptroller should not be expected to discharge such function, and that it should either be remitted to the institution itself or conferred on "whatever authority you put over it to direct it".

To sum this up: Preservation of the autonomy of the auditing agency is a sound principle in administration. The imposition of this class of administrative duties upon the comptroller would tend to destroy this autonomy. The State Board takes a curious attitude in now fending off the grant of the fiscal power which its president said in 1907 was a constitutional power of the board that ought not to have been taken away. The State Board has frequently commented on the power it possesses over private institutions in issuing or withholding certain certificates. The issuing of a certificate meant the payment of public money to the institution; withholding the certificate meant that the payment of money was stopped. It was real power. There is in this a complete analogy to the relation between the State Board and the state institutions. In every line of the revision of the quarterly estimate, the reviser allots the annual appropriation to the institution *pro tanto*; refusal means no money for the desired purchase. The effect is instant and complete. The power which the board has hitherto found effective in the case of the private institution should find a parallel in the grant to the board of similar power over the state institutions.

Such of the duties of the Fiscal Supervisor as relate to audit should be vested in the comptroller solely. This would not mean the imposition of any new duties upon the comptroller. He has them now. It

would mean simply that duplication of labor in the process of audit would be ended.

The remaining powers of the Fiscal Supervisor either are now vested in the State Board of Charities or should be. Functions of the Fiscal Supervisor to which the State Board is unaccustomed are the periodic revision of institution estimates and the supervision of purchasing under joint contract. For the reasons already set forth, I am convinced that the estimate system, modified as I have hereinabove suggested to the extent of providing by administrative order allotments in group instead of allotments in detail as at present, should be administered by one member of the State Board. My *suggestion is that that member shall be the president of the State Board, to be appointed and compensated as hereinafter provided.* The inspectorial staff of the board, which visits state institutions and which could be enlarged if desirable, would bring to the desk of the estimate revision officer the required information as to institution needs. The president of the board, directing this work, would, as a member of the board, know its policy with respect to each of the institutions that it supervises.

Purchasing Under Joint Contract.

So with respect to purchase under joint contract. The secretary of the State Board should discharge the clerical duty now performed by the Fiscal Supervisor in calling together annually the superintendents to determine, subject to the approval of the State Board, what articles might be advantageously purchased by the state institutions under joint contract, and to name a purchasing committee which may make such purchases under institution contracts approved by the State Board. I have shown that the advantage of joint purchase has been by many greatly overrated, but what is worth doing at all is worth doing well, and I believe that more can be made out of the system than has been made by the Fiscal Supervisor and the Joint Purchasing Committee. In that event, the work might be carried on under the direct supervision of the president of the State Board.

I have already referred to the fact that the State Board of Charity in Massachusetts, which is the most conspicuous example of the advisory state board, supervises joint purchasing. The president of the New York State Board, in testifying before me said that in case the office of the Fiscal Supervisor is abolished, it would be comparatively easy for the State Board to assume supervision over purchases by joint contract, to pass on special orders on construction work issued by the State Archi-

tect, and to attend to other details now within the field of the Fiscal Supervisor; and, "if it could be done without violating any provision of the constitution, it would be a great step in advance and a great advantage to the institutions."

Building Plans for State Institutions.

I quite agree with the president of the State Board that the power of approving or rejecting plans and specifications for new state charitable institution buildings, and for alterations and repairs in existing buildings, now resting with the Building Improvement Commission and which was once vested in the State Board, should be restored. This is a power sought by the State Board, although it is plainly administrative. The President said: "The power was taken away for political reasons and rests in a special commission of state officials. It should be restored to the board in the public interests." The State Board already has a Building Construction Committee and a staff for this work, as it performs a similar service for the almshouses and the private institutions. In order to end such interminable and disastrous delay in building construction as was visited upon Letchworth Village, I favor the suggestion that institution authorities be authorized by law to retain an architect to draw plans and specifications for new buildings for which appropriations have been granted in case the state architect certifies that he cannot prepare the plans and specifications within a reasonable time to be fixed by statute, all plans and specifications, prepared by the state architect or otherwise, to receive the approval of the president of the State Board.

Sites for Grounds and Buildings.

I also agree with the president of the State Board and other members of the board that the selections of sites for grounds and buildings of all new state charitable institutions and of new buildings for existing institutions should be made by the State Board, which now performs a similar service for the counties in the case of almshouses. The State Board should be a veritable clearing house of information as to the entire state charitable institutional program, and in the discharge of its duties of leadership in establishing a constructive plan for the development of state institutional service, should, when new institutions are authorized by the legislature, know best of all the needs of the state at large and the relative claims of localities. The local boards of managers of state institutions still possess the power to condemn lands for institution buildings, although that power was also vested in the Commission on Sites, Grounds and Buildings (Laws 1896, C. 589).

What I have written under the title "Salary Classification Commission" makes clear, at least to me, that what if anything there may be left for it to do in the present state of the law does not justify the continuance of the commission. If I felt it to be within my province in this report to express any view on an annual legislative appropriation for "personal service", carried in such detail as in 1916, I should say that it is unwise legislation. I hope to see the adoption by the legislature of the salary standards proposed in 1916 by the Senate Committee on the Civil Service, which received executive approval. Some latitude in fixing salaries should be reposed in the local boards of managers, for in them is the primary control of the institutions and their power should be adequate to enable them to exercise that control. Governor Hughes said in his annual message in 1909: "It is not advisable that particular salaries of subordinate employees in state institutions should be fixed directly by the Legislature. These matters of detail, within the limits fixed by the legislative appropriations, should be dealt with through administrative agencies."

Power to Fix Salaries.

If, in view of the detailed "personal service" appropriation, there is any place left for any sort of salary classification commission, it should take the form of a standing conference committee, to which I have already referred in treating the subject of joint purchasing. The members of this committee should be the president of the State Board, the chairman of the Hospital Commission and the Superintendent of Prisons, called together at regular periods by the president of the State Board representing the oldest department in the state institutional service. In the event that the salary standards proposed by the Horton Committee are not adopted by the legislature, this conference committee might render an important service in securing uniformity of compensation for similar service in the three groups, as far as practicable, and should be charged by law with that obligation.

Standing Conferences as to Salaries in Hospitals, Prisons and Charitable Institutions.

Secondly, as to the kind of State Board of Charities that should be organized to discharge the functions, new and old, that have been assigned to it.

Form of the Reorganized State Board.

The State Board now consists of twelve members appointed by the governor, one from each judicial district and three more from New York City, term eight years; no compensation until 1894, and since that date nominal, or at the rate of $10 for each day's attendance at meetings, not to exceed $500 in the year. There are no qualifications fixed

in the act. There is a secretary to the board who has an annual salary of $6,000. The board selects its president and other officers. There is no statutory requirement as to the number of meetings.

Concentration of Executive or Administrative Functions in a Paid President.

There is no statutory division or apportionment of duty. Every act of the State Board, call it supervisory, visitational, legislative, judicial, administrative or executive, is the act of the twelve. In my judgment, such of the functions of the State Board as may properly be called executive or administrative and which it has possessed in the past, would have been more efficiently discharged had they been centered in one person directly responsible to the governor. The imposition on the State Board of important new duties, such as the revision of the estimates and group allotments thereon, which means fiscal control, the supervision of purchase by joint contract, the approval of state institution building plans and specifications, *will render imperative the imposition of these administrative or executive duties upon one member of the board if efficiency is to be obtained.* This should be dealt with specifically in the statute. The president of the board should be this administrative and executive officer, and the president should be designated by the governor, as in the case of the Public Health Council, and not elected by the board as at present. To what extent, if any, his action, as such officer, should be subject to the review of the board at large, can be determined only as experience in the work teaches. More frequent board meetings than are now the rule would meet one objection to possible delay due to board review. In Massachusetts, where there is an unpaid state board of charity with nine members, there are two regular meetings each month, and in 1914 there were 28 meetings of the board. In New York, the board has only four stated meetings in the year, and in 1915 there were nine meetings in all.

Under this plan, the president of the board should be held directly responsible for obtaining adequate institutional appropriations for maintenance and new construction, and for putting newly authorized institutions on their feet as to sites and appropriations for buildings. He would share with the chairman of the new Bureau for Dependent Children, which I shall recommend, responsibility for obtaining for the board an adequate and competent inspectorial staff for the inspection of institutions. He should acquaint himself with the reasons for the startling disparities in per capita cost in similar institutions of this state as compared one with another, and with those in other states, or, what

is more suggestive, the differences in the number of inmates cared for by one employee. There lies for him also a field hitherto practically undeveloped by the Fiscal Supervisor. I refer to the upbuilding of such industry in the several state institutions, without interfering with general markets, as would tend toward making the institutions self-supporting and thereby diminishing the heavy burden upon the state.

Examination of the messages of the governors of New York discloses frequent asseverations of the doctrine of "concentration in administrative responsibility", notably Governor Hughes and Governor Glynn. It hardly requires elaboration of the argument that the best way to get things done in matters executive and administrative is to put adequate power in the hands of one competent man and hold him responsible. On the other hand, in such matters as the making of rules and regulations for institutions, which is an exercise of legislative power, or authorizing incorporations and granting and revoking dispensary licenses and in approving the annual institution estimates for appropriations, which call for the rendition of a judgment or the determination of a policy, it is safer to trust to the judgment of a group constituting a board.

A Board of Nine, Each Possessing Certain Statutory Qualifications.

I would take the risk of limiting the range of gubernatorial selection by writing into the act the qualifications for some, at least, of the members. These qualifications should, of course, be stated with reference to the several fields of activity with which the board is identified.

I would make a board of nine instead of twelve as now; I would have a president of the board who is a skilled administrator; a member, serving as chairman of the new Bureau for Mental Deficiency, who is a physician with special training in psychiatry; a member, serving as chairman of the new Bureau for Dependent Children, who has special knowledge of the care and education of children in private institutions and of children placed out in homes; a member who is a penologist or skilled in reformation of the delinquent, with special reference to the seven state institutions concerned with delinquents; a member who is skilled in methods of education, with special reference to the two state schools; a member who is a physician with knowledge of tubercular diseases, with special reference to the state institution having inmates thus afflicted; a member who is generally conversant with dependency and the several forms of poor relief; a physician who is a general practitioner with special reference to dispensaries and hospitals and to the state institution for crippled children; and a member who is a lawyer.

Analogous instances of statutory qualifications for members of similar boards in New York are the Hospital Commission, which must be made up of a doctor, a lawyer and a reputable citizen, and the Public Health Council, which consists of the Commissioner of Health, who must be a physician with special training, and a council of six, of whom three must be physicians trained in sanitary science.

There is nothing that I can see in such qualifications as I have outlined that calls for such close and narrowing specialization as to unfit a member for a broad view of problems other than his own that may confront the board.

At Least One Must Be a Woman.

The statute should provide that at least one of the nine members must be a woman. One of the most distinguished and efficient persons that ever held membership on the board was a woman, Josephine Shaw Lowell. She was the main spirit in the foundation of at least two of the great state institutions. She served from 1876 to 1889 and retired only because she felt she could do better work off the board than on. The care and education of children in public and private institutions subject to the supervision of the State Board is one of its chief concerns. In 13 of the 16 state charitable institutions now open there are female inmates. On many of the local boards of managers there are women, in some cases by requirement of law, and I know of no board upon which they serve that would consider dispensing with them. It is a requirement of the statute that at least two women shall be appointed to the local boards of child welfare established in 1915. In several of the states women serve on state boards of charities. In Massachusetts, two of the nine members are women. The Supreme Court in that state wrote, in speaking of the State Board of Charity: "The duties of the board are mostly administrative and are such as may be well performed by women" (136 Mass. 581).

Reasons for a Board of Nine rather than a Board of Three.

I appreciate that the view is held by many careful observers that the State Board would be a more efficient body if it consisted of one member, or at the most three. It is clear to me that the terms of the constitution forbid a board of one, and I doubt if adoption of the suggestion to create a board of one with an advisory council, analogous to the Public Health Council, would make it constitutional. The latter body is not named in the constitution. For reasons which I have already stated, no one person should be called upon to exercise certain of the legislative and judicial functions possessed by the State Board of Charities. As for an

advisory council, I desire a closer grip and a deeper sense of individual responsibility and common obligation than such bodies usually display. As for a board of three, there is much that persuades one toward it. It seems to make for efficiency. It is easy to do business with it. The admirable work of the State Hospital Commission of three suggests it. But the Hospital Commission has its one problem of the insane; it supervises fourteen state hospitals, one psychiatric institute, and visits twenty-five private hospitals. The State Board has problems that extend over the whole range of dependency, delinquency and mental deficiency. It supervises 775 institutions, public and private. There must be latitude in its membership for experts in five or six fields and for men and women of the differing religious faiths. Citizens deeply interested in one field or another of charitable endeavor should be enabled to gratify the natural desire to confer at first hand, not with subordinates alone, but with responsible members of the board authorized to declare and to explain its policies. These are some of the reasons why I recommend a larger board.

Term of Service.

The term of service of each member should be during good behavior. Under the constitution, members are always subject to removal by the governor for cause, an opportunity having been given to be heard in their defense. The statute should provide that the cause should be stated in writing. The Chairman of the Hospital Commission is in office during good behavior, subject to a similar method of removal. Service during good behavior will mean that the incumbents will have time within which to do their best work in the office, which is something that cannot be said of most state officers in view of their short terms. It will also mean that there will not be such frequent opportunity for the intrusion of partisan considerations into selections for the office.

Appointment at Large.

If my view is sound that such qualifications for membership as I have outlined should be expressed in the statute, it will follow that appointments from districts must give way to appointments at large. To require in each case the best available expert in the state to be found in a given judicial district would be not only to impose a difficult, if not impossible, task upon the appointing power, but would in the end lead to such appointments as would defeat the object sought. I am so convinced that the appointment from districts is unwise that I would abandon it for appointments at large even if the further restriction as to qualifications were not to be written into the law. When the first statute providing for

a State Board of Charities was drawn in 1867, there may have been justification for this district representation. At that time there were comparatively few institutions subject to the visitation of the board. The board had no inspectors. The members themselves did all the visiting. When the oldest present member of the State Board was appointed there were so few institutions, even in New York City, that he was able to visit them all in the course of a year. Each member visited the institutions in his own neighborhood or district. It was a long time before the members thought it would be safe to trust visitation to paid subordinate inspectors. The number of institutions, however, has increased to such extent that, as one member testified: "It has become impossible for a member to make individual inspections unless he worked all the time, and even then it is almost impossible." The inevitable followed. Inspectors were appointed, and in their work the State Board necessarily relies in the main. At committee meetings, inspection reports of one kind and another are passed upon at the rate of one report for every 1.22 minutes, without allowance for a large amount of other important business, including the ratings on each institution. Few of the members are able to visit all of the private institutions in their own districts. Special effort is made by members to visit in their districts the laggard private institutions, or those which fall lowest in rating. One, a member for four years, had not visited any of the sixteen state institutions, and excused it on the ground that none was in his district! Another member had visited 15 to 20 private institutions out of 120 in his district in the course of his three years' service, and did not know even the names of several of the important institutions which were the subject of weeks of controversy between the City and the State. Another failed to visit a private institution in his district, although it was in serious difficulty of the most sensational character.

The Commonwealth of Massachusetts furnishes proof that visitation and inspection over a very large number of private institutions may be efficiently conducted by a State Board chosen at large. In that state, the State Board visits and inspects 800 private charitable corporations at least once annually, as required by law. This is in addition to its state institution inspections. In New York, the number of private institutions visited and inspected by the State Board is 640.

District representation on the State Board is, therefore, no longer necessary in New York, nor is it, I think, desirable. The principle of

representation of localities finds its expression in the legislature, which creates the board and establishes its powers and duties under the constitution. The board is only the instrument to exercise the legislative will. The principle of representation is inappropriate to it. The old district visitation by members of the board, and such as still remains, is only a step in the continuous process of inspection and supervision of all the institutions in the state which should develop into the expression of a set of fundamental standards. District representation, it seems to me, is likely to narrow the horizon and thus the view of community needs in establishing these standards. Visitation and inspection of private charities, in cities like New York, must be carried on through a paid staff, who should look for guidance to a board with the broadest possible conception of the service.

The only states in all the Union that build their state boards of charities upon district lines are Arkansas, Rhode Island and New York. In New York itself, no analogy to district representation will be found either in the Prison Commission or in the Hospital Commission or in the Public Health Council, all of which are constituted at large.

Salaries for Three of the Nine Members.

I favor the payment of adequate salaries to the president of the State Board, to that member of the board who becomes chairman of the new Bureau for Mental Deficiency, and to that member of the board who becomes the chairman of the new Bureau for Dependent Children. I favor a continuation of the present nominal compensation for the remaining members of the board. In other words, I suggest three paid members and six unpaid members. I suggest the sum of $7,500 annual salary for the president of the board, and the sum of $6,000 annual salary for the chairman of the Bureau for Mental Deficiency, and the sum of $5,000 annual salary for the chairman of the Bureau for Dependent Children, and in each case the sum of $1,200 per annum in lieu of his traveling and incidental expenses. Precedent for these salary suggestions is found in the fact that the chairman of the Hospital Commission receives $7,500, and the other two members $5,000 each, and each has $1,200 in lieu of his expenses. The Superintendent of Prisons has $6,000, the Commissioner of Health $8,000, and the six other members of the Public Health Council $1,000 each. The Fiscal Supervisor has $6,000.

I have already pointed out that the abolition of the office of Fiscal Supervisor would eliminate approximately $55,000 from the annual salary roll of the State.

The services required of the president of the State Board and the chairmen of the two new bureaus will demand their entire time. There must, of course, be compensation for such service. At the rates suggested, the element of public devotion must necessarily enter to some extent. I am a firm believer in the high quality of volunteer public service that comes to the state and the municipality from those who would not otherwise accept office. On the other hand, there are men and women in the state who are too poor to give gratuitously to the state their services, which may be the best and most expert that the governor can find.

With a board made up as I have suggested, I see no likelihood that it could be called a "one man board", except in matters administrative and executive, as to which the plan is to make it a "one man board". In the past, the by-laws of the board have imposed such powers and duties upon the paid Secretary, efficient man that he was, that it was generally regarded as a "one man board". The Secretary was required to reside in Albany to aid the commissioners in the performance of their duties, to complete the text of the annual report, to be the medium of official communications by the board, and to supervise all branches of the board's work. A member of the board testified that the Secretary advised the board as to its policies and that his advice was usually followed, and the President of the board called him "the executive officer of the board". If one man is to lead the board, it would seem to me that it would be better that he should be the salaried president, giving all his time to the work and responsible directly to the governor rather than that he should be a paid secretary responsible to the board. But beside the paid president of the board, the plan calls for two other paid members and six unpaid, a strong majority of unpaid over paid members in case it should become necessary to divide upon any question. In explaining why the board has failed to do what it should have done in putting newly authorized state institutions on their feet, a member of the board testified that he thought such work would take all the time of a "paid man"; and so it will, or much of it.

There has been much genuine alarm in the present State Board over any possibility of payment to them of substantial salaries. The reason given by them is that politicians will seek the office. In the first place, I am going to assume that the executive will make the best appointments possible. I know of no other way to draft a plan of organization

of any department of government. In the next place, if the statute is made to specify the qualifications that I have suggested, it would be difficult to fill the places with incompetents. Finally, I call attention to the related departments of health, hospitals for the insane and the prisons. Has politics crept into the office of the Commissioner of Health or the Public Health Council? They are salaried offices. Has it crept into the department of the Hospital Commission? They are salaried offices. Has it kept out of the prisons? The Prison Commission is unsalaried.

In the constitutional convention of 1894 an unsuccessful effort was made to write into the constitution the provision that members of the State Board of Charities should not be paid. The constitution left it open to the legislature to provide compensation, although it was specifically warned in the debate that the legislature would do so and that evils would flow from it.

The State Board of Charities built its case for an unsalaried board upon the proposition that in 1867 it was modeled on the lines of what the President of the board called "the great Lunacy Board in England". He testified that "the marked features of this were a high grade of membership serving without salary and freedom from political influence". Another member of the board said:

> "There were three ideas that were impressed upon me by these original men. The first was to remove the charities as far as possible from political influence, and to do that we must have unsalaried boards, both of local boards of management and the supervising board; and that is the way the great Lunacy Commission of England was appointed, which was regarded as the most useful commission ever created."

The State Board is strangely in error about the English Lunacy Board. A great board it certainly was and has been ever since it was established in 1845. But salaries, and liberal salaries, have been paid its members ever since 1845. In the course of extended reading on the work of this English board, I have never heard that it was affected by political or partisan considerations. From 1845 to 1911, the board consisted of eleven commissioners, three of whom were medical practitioners, and three of whom were barristers of at least ten years standing at the bar. These six commissioners were paid salaries of £1,500 each per annum,

and in addition, their traveling and other expenses. The other commissioners were not paid. Their terms were for good behavior and they were named at large. The original commissioners, headed by Lord Ashley, were named in the act. In 1911, the board was increased to a membership of 13. In 1913, as a result of four years deliberation of the Royal Commission on Mental Deficiency, there was enacted the Mental Deficiency Act. A board of fifteen members at large was provided, to serve at the pleasure of the King, of whom not more than twelve are paid. Of the paid commissioners, four must be practising barristers or solicitors of at least five years standing, four must be medical practitioners of at least five years standing, and at least one of the unpaid and one of the paid commissioners must be a woman. The chairman of the board, named by the Secretary of State, receives not more than £1,800 per annum, and the other paid members £1,500 each per annum. The board has visitational, supervisory and broad administrative powers, including the power to administer grants of money made by Parliament under the act.

The English Charities Commission, which was established in 1853, but occupies a different field from any that is familiar to state boards of charities in this country, consists of at least four commissioners appointed at large and serving during good behavior, of whom the Chief Commissioner receives £1,500 per annum, and the other paid commissioners £1,200 per annum each.

It would appear, therefore, that if the State Board of Charities is to be built upon the lines of the great English Lunacy Board, it should consist of a membership at large, at least two of whom must be women, and nearly three-fourths of whom must be fully compensated for all their time, instead of a district board without compensation, as is the present State Board, or a board of which only one-third of the members are compensated, as is recommended in this report.

Two charts are appended—one setting forth the present plan of state administration, and the other, the proposed plan.

RECOMMENDATIONS.

For the sake of convenience, I shall re-state here in summary form the principal recommendations contained in this report.

I recommend a reorganization of the State Board of Charities. Instead of an unpaid board of twelve, appointed by the governor from districts, with eight year terms, the board selecting its own president and without qualifications specified in the law, the board should become a board of nine, of whom at least one should be a woman, and of whom three should be paid and six should not be paid, appointed by the governor from the state at large, to serve during good behavior and removable by the governor on notice for cause; special qualifications for membership to be described in the law, to the end that all the functional activities of the board should be discharged by persons with special training therefor; the three paid members to be the president of the board and the chairman of the two new bureaus within the board, namely, the Bureau for Mental Deficiency and the Bureau for Dependent Children, these three members to be designated as president and bureau chairman, respectively, at time of appointment by the governor. The duties to be imposed upon these three members will require that they give all their time to the service. I recommend specification in the statute of specific qualifications for certain members of the State Board of Charities, with special reference to the several classes of state institutions supervised by the board, such as a penologist or one skilled in the reformation of the delinquent; an educationist; a physician with special knowledge of tubercular diseases; a physician who is a general practitioner, with special reference to hospitals and dispensaries; a lawyer; a physician with special training in psychiatry, to serve as chairman of the new Bureau for Mental Deficiency; a specialist in the care of children in private institutions and in foster homes, to serve as chairman of the new Bureau for Dependent Children; and one generally conversant with dependency and the several forms of poor relief.

I recommend that the board should be required to meet regularly at least twice a month, as in Massachusetts. Under the present law, there is no requirement as to the number of meetings.

I recommend that new administrative and executive functions should be conferred, in order to convert an advisory board, weakened by loss of power, into an authoritative supervisory board. This should include the

duties of the Fiscal Supervisor in fiscal affairs, surrendering to the comptroller such of said duties as relate solely to audit. Provision should be made for such institutional records as will exhibit functional costs. Without surrender of central control by the board over expenditures, provision should be made for modification of the procedure of estimate and allotment so that the institutions may work more smoothly and with greater initiative. Other new functions should be the supervision of purchase under joint contract and the review of building plans for the state institutions. These and other duties of an administrative or executive character should be imposed upon the president of the board in the belief that efficiency in matters administrative calls for a one man service. Upon him also would fall the responsibility for executing the plans of the board with respect to institutional development; for promoting new institutions after legislative authorization by the acquisition of sites and buildings within the appropriations that are provided; for developing institutional industries on the farm and in the shop, to the end that the institutional service may be the more economically administered; and to obtain adequate appropriations for extending and improving the inspection service over public and private institutions, as contemplated in the constitution and the laws.

Pending the adoption of such new constitutional provision as will permit the establishment of an independent state department for the supervision of the mentally defective, known generally as the feeble-minded, I *recommend* the establishment of a new bureau in the State Board of Charities, to be known as the Bureau for Mental Deficiency, the chairman of which is to be one of the paid members of the board, and who must be a physician with special training in psychiatry, and associated with whom is to be a new unpaid advisory council, named by the chairman and approved by the State Board.

In the State Hospital Commission, the state has made independent provision for the supervision of the insane, who furnish no graver problem than do the mentally defective.

I recommend the restoration to the State Board of Charities of the power to review building plans for almshouses in New York City, this power having been taken away by the legislature in 1913 and placed in the Board of Estimate and Apportionment. I perceive no adequate reason for the exception of New York City from the procedure obtaining over the remainder of the state.

I recommend an express grant of power to the State Board of Charities to adopt rules and regulations for the reception and retention of inmates in state charitable institutions, subject to the laws of the state. This power the board now possesses with respect to private institutions.

I recommend continued executive approval of the report of the Senate Committee on Civil Service and writing into the law standards of compensation for institutional service.

I recommend prompt provision for a new institution for defective delinquents.

I recommend for adult female delinquents care in public institutions exclusively.

I recommend periodic conferences under statutory regulation among the heads of the three great institutional groups, charities, hospitals for the insane and prisons, for the purpose of securing uniformity in salary schedules, as far as may be practicable, and for the purpose of considering what, if anything, could advantageously be bought by joint purchase for all institutions.

I recommend careful revision of the State Charities Law and the Poor Law, and have indicated herein certain definite results that would be accomplished thereby; but this revision should await the determination by the executive and the legislature as to what, if any, new form of state administration shall be adopted.

I recommend such extension as there may be under the existing constitution of the visitational power of the State Board of Charities over private charitable institutions.

I recommend the establishment of a new bureau in the State Board of Charities, to be known as the Bureau for Dependent Children, the chairman of which is to be one of the paid members of the board and who must possess special training in the care of children in private institutions and in foster homes. This bureau will, subject to the approval of the board, develop new and reasonable standards of child care in the institutions; promote the placing-out of certain classes of children in the family home; make uniform the institution methods of placing-out; adopt measures to lessen the mortality rate in foundling asylums, such as to reduce the number of surrenders of infants to the asylums by mothers who could be aided to care for their children in their own homes; create and advance new measures of outdoor relief, in order to preserve

for children their natural home; persistently stimulate, by publicity and otherwise, an increase in financial support for the institutions, both from the public treasury and the private benefactor, to enable the institutions to conform to reasonable standards of child care; and the chairman of this bureau will aid the president of the board in obtaining appropriations needed to meet the imperative demand for enlargement of the inspectorial staff of the board.

I recommend that the State Board of Charities be compelled by statute to issue, when warranted, its own affirmative certificates of compliance by private institutions with its rules and regulations, said certificates to be a prerequisite to payments to the institutions by the local disbursing officers.

I recommend repeal of the charter provision requiring, as a condition of payment to the private institutions, a certificate by the Department of Public Charities in the City of New York that the institutions have complied with the rules and regulations of the State Board of Charities; to the end that inspection by this department shall be permissible and not impliedly compulsory as it now is, and that compulsory inspection shall continue to be imposed upon the State Board and upon that board alone.

I recommend the abolition of the office of the Fiscal Supervisor of State Charities, established under an article in the State Charities Law entitled "Regulation of State Charitable Institutions".

I recommend the abolition of the Salary Classification Commission.

I recommend the abolition of the Building Improvement Commission.

I recommend the abolition of the Commission on Sites, Grounds and Buildings.

I recommend the abolition of the Board of Examiners of Feeble Minded, Criminals and Other Defectives.

Respectfully submitted,

CHARLES H. STRONG,
Commissioner.

Dated: New York, October 25, 1916.

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